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DATE: March 30, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Steel Nails from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fifth Antidumping Duty Administrative Review

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SUMMARY

The Department of Commerce ("Department") analyzed comments submitted by Petitioner,[1] Stanley,[2] and Xi'An Metals[3] in the fifth administrative review of the antidumping duty order on steel nails from the People's Republic of China ("PRC"). Following the *Preliminary Results*[4] and the analysis of the comments received, we made changes to the margin calculations for the final results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

BACKGROUND

The Department published the *Preliminary Results* on September 30, 2014.[5] On January 20, 2015, the Department extended the deadline in this proceeding by 60 days.[6] The revised deadline for the final results of this review is now March 30, 2015. On February 9, 2015, we

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[1] Mid Continent Steel & Wire, Inc. ("Petitioner").
[2] The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively, "Stanley").
[3] Xi'an Metals & Minerals Import & Export Co., Ltd. ("Xi'An Metals").
[4] *See Certain Steel Nails From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2012-2013*, 79 FR 58744 (September 30, 2014) ("*Preliminary Results*") and accompanying Preliminary Decision Memorandum.
[5] *See Preliminary Results*.
[6] *See* Memorandum to Gary Taverman, "Certain Steel Nails from the People's Republic of China: Extension of Deadline for Final Results of the Fifth Antidumping Duty Administrative Review," dated January 20, 2015.

released the sales and factors of production ("FOP") verification reports for Stanley.[7] On February 12, 2015, Tianjin Lianda[8] submitted its case brief, on February 17, 2015, Stanley submitted its case brief, and on February 18, 2015, Petitioner and Xi'An Metals submitted case briefs. On February 24, 2015, Petitioner and Stanley submitted rebuttal briefs.

Also, in reviewing the appendix to the Preliminary Decision Memorandum, which listed those companies found to be part of the PRC-wide entity, we noted that we inadvertently listed Jining Huarong Hardware Products Co., Ltd. and Shandong Oriental Cherry Hardware Import & Export Co., Ltd. among them. Both companies, in fact, had timely filed letters stating that they had no shipments during the POR (and were listed as such in the narrative),[9] and there is no record evidence to the contrary. In a similar vein, the Department stated that Shandong Oriental Cherry Hardware Group Co., Ltd. had filed both a no shipments letter and a separate rate certification.[10] In fact, the no-shipments letter pertained to Shandong Oriental Cherry Hardware Import & Export Co., Ltd., and Shandong Oriental Cherry Hardware Group Co., Ltd. submitted only a separate rate certification.[11] We hereby correct the classifications of each of the aforementioned companies for these final results.

SCOPE OF THE ORDER

The merchandise covered by this order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails

[7] *See* the memoranda to the file "Verification of the Questionnaire Responses of Stanley Black & Decker, Inc. ("SBD") in the 2012-2013 Antidumping Duty Review of Certain Steel Nails from the People's Republic of China ("PRC")," and Verification of the Questionnaire Responses of The Stanley Works (Langfang) Fastening Systems Co., Ltd. ("Stanley Langfang") in the 2012-2013 Antidumping Duty Review of Certain Steel Nails from the People's Republic of China ("PRC"), both dated February 9, 2015.
[8] Tianjin Lianda Group Co., Ltd. ("Tianjin Lianda").
[9] *See* the no shipments letters submitted by these two companies on November 27, 2013. *See also* Appendix, which includes the updated list of companies within the PRC-wide entity.
[10] *See* Preliminary Decision Memorandum at 6.
[11] *Id*; *see also* Shandong Oriental Cherry Hardware Group Co., Ltd.'s separate rate certification submitted on November 27, 2013.

subject to this order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[12]

Excluded from the scope of this order are steel roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope are the following steel nails: 1) Non-collated (*i.e.*, hand-driven or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500" to 8", inclusive; and an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual washer or cap diameter of 0.900" to 1.10", inclusive; 2) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 4", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive; 3) Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 1.75", inclusive; an actual shank diameter of 0.116" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive; and 4) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75" to 3", inclusive; an actual shank diameter of 0.131" to 0.152", inclusive; and an actual head diameter of 0.450" to 0.813", inclusive.

Also excluded from the scope of this order are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this order are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this order are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

Also excluded from the scope of this order are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this order are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[12] The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, "Other articles of zinc: Other," to the language of the *Order*. *See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling," dated September 19, 2013.

DISCUSSION OF THE ISSUES

General Issues

Comment 1: Selection of the Surrogate Country

Xi'An Metals' Arguments

- The Department should select the Philippines as the primary surrogate country.
- The record contains three reliable and contemporaneous sets of financial statements from Philippine companies that produce subject merchandise.[13]
- The Department has previously found that Philippine wire rod import data was more specific than Thai data,[14] which is overly narrow with respect to carbon content and also includes delineations for silicon and aluminum content.
- The Department's decision in the *Preliminary Results* that specificity of the Thai tariff schedule concerning the carbon content of steel is determinative is not supported by Department practice. Further, carbon is neither a product characteristic of steel nor is it a pricing factor for wire rod.[15]
- In the alternative, the Department should choose Ukraine as the surrogate country since the record contains information to value all of Xi'an Metals inputs.
- Specifically, the Ukraine financial statement, *2011 Dneprometiz*, on the record represents a producer of subject merchandise that consumes wire rod, similar to Xi'An Metals.
- The record contains two Ukrainian sources to value wire rod that are specific to the wire rod consumed by Xi'An Metals.[16]
- Thai import values are unreliable because, according to World Trade Organization ("WTO") and U.S. Trade Representative ("USTR") reports, the Thai Customs authority manipulates entered values of imported merchandise.[17] The FedEx Country Report of Thailand also provides details regarding Thai Customs data manipulation.[18]
- Thai Customs' manipulation of import prices is analogous to the Department's practice of disregarding exports from countries that maintain broadly available, non-industry-specific export subsidies and should be excluded, as a result.[19]
- The military coup in Thailand renders Thai data unrepresentative and unreliable.[20]

Petitioner's Arguments

- The Department should continue to select Thailand as the surrogate country as it is economically comparable to the PRC and has significant production of comparable

[13] *See* Xi'An Metals Case Brief at 3, citing Letter from Xi'An Metals, to Commerce, regarding "Steel Nails from the People's Republic of China: Surrogate Values for the Preliminary Results," dated April 4, 2014 ("Xi'An Metals April 4 SV Comments") at Exhibit SV-3 through SV-5.
[14] *See* Xi'An Metals Case Brief at 4, citing *Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013) ("*Hangers from PRC*") and accompanying Issues and Decision Memorandum at 11.
[15] *See* Xi'An Metals Case Brief at 5.
[16] *Id.*
[17] *Id.*, at 12-13.
[18] *Id.*, at 14-15.
[19] *Id.*, at 18.
[20] *Id.*, at 21.

merchandise.[21]

- The Department should not disregard Thai import data because there is no evidence that the Thai market is distorted by subsidies.[22]
- Thailand's Gross National Income ("GNI") is closer to the PRC than that of the Philippines,[23] while Ukraine was not recognized by the Department as being economically comparable to the PRC.[24]
- The Department should maintain its position taken in *Xanthan Gum* and find Thai import statistics to be reliable because nothing on the record demonstrates that Thai import statistics for the raw materials specific to this POR are unreliable or inferior.[25]
- The Philippine import data for steel inputs are significantly less specific than Thai import data.[26]
- It is not clear whether any of the Philippine financial statements are for companies that actually produce nails, fasteners, or anything comparable.[27]
- Ukrainian wire rod import data are less specific than Thai data and are not a viable basis for valuing wire rod. Additionally, Ukrainian steel plate data do not make any distinction for carbon.[28]

A. Economic Comparability

Department's Position:

Section 773(c)(4) of the Act states that the Department "shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country." However, the applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on per capita gross domestic product ("GDP") as the measure of economic comparability.[29] Although the regulation states that the Department's primary emphasis will be placed on GDP, the U.S. Court of International Trade ("CIT") has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[30] Accordingly, based on 2011 GNI data, the Department determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand

[21] *See* Letter from Petitioner, to Commerce, regarding Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China (2012-2013): Petitioner's Rebuttal Brief," dated February 24, 2015 ("Petitioner Rebuttal") at 2-3.
[22] *Id.*, at 9.
[23] *Id.*, at 3.
[24] *Id.*, at 3-4.
[25] *Id.*, at 6.
[26] *Id.*, at 14.
[27] *Id.*, at 14-15.
[28] *Id.*, at 16-17.
[29] Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. *See* Policy Bulletin 04.1.
[30] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

are at the same level of economic development as the PRC.[31] Accordingly, unless it is determined that none of these countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value ("SV") data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries. As discussed below, we continue to find that Thailand provides the most accurate data sources for SVs and best meets the criteria for selection as primary surrogate country.

As an initial matter, with respect to Petitioner's argument that Thailand is a more appropriate surrogate country than the Philippines or Ukraine, because Thailand's GNI is closer to the PRC than that of the Philippines,[32] and because Ukraine was not recognized by the Department as being economically comparable to the PRC,[33] we disagree with Petitioner's analysis. Given that the surrogate country list is non-exhaustive, as stated in the *Preliminary Results*, countries on the segment record that are at the same level of economic development as the PRC are given equal consideration for the purposes of selecting surrogate countries. However, as described above, countries that are not at the same level as the PRC, but still at a level of economic development comparable to the PRC, are selected only to the extent that data considerations outweigh the difference in levels of economic development. As noted above, GNI is the primary indicator of a country's level of economic development.[34]

Additionally, as stated in the *Preliminary Results*, although Ukraine was not included in the Surrogate Country Letter, Ukraine's GNI[35] falls within the range of GNIs for those countries listed in the Surrogate Country Letter. Because Ukraine's GNI falls within the highest GNI and lowest GNI (*i.e.*, the "bookends") of the countries listed in the Surrogate Country Letter, for economic comparability, the Department continues to find Ukraine to also be at the same level of economic development as the PRC for these final results.[36]

B. Significant Producer of Comparable Merchandise

Department's Position:
Section 773(c)(4)(B) of the Act requires the Department to value FOPs, to the extent possible, in a surrogate country that is a significant producer of comparable merchandise. According to the *Policy Bulletin*:

> The extent to which a country is a *significant* producer should not be judged against the NME country's production level or the comparative production of the five or six countries on OP's surrogate country list. Instead, a judgment should be made consistent with the characteristics of world production of, and trade in,

[31] *See* Letter to All Interested Parties, from the Department, regarding "Certain Steel Nails from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated January 30, 2014 ("Surrogate Country Letter").
[32] *Id.*, at 3.
[33] *Id.*, at 3-4.
[34] *See Preliminary Results*.
[35] *See* Letter from Xi'an Metals, to the Department, regarding "Steel Nails from the People's Republic of China: Comments on List of Potential Surrogate Countries," dated February 6, 2014, submission.
[36] *See* Preliminary Determination Memo at 11.

> comparable merchandise (subject to the availability of data on these characteristics). Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case. For example, if there are just three producers of comparable merchandise in the world, then arguably any commercially meaningful production is significant. Intermittent production, however, would not be significant... In another case, there may not be adequate data available from major producing countries. In such a case, "significant producer" could mean a country that is a net exporter, even though the selected surrogate country may not be one of the world's top producers.

We note that in this particular case, the Philippines, Thailand, and Ukraine were producers of steel nails during the period of review ("POR"). No party questions whether Thailand or Ukraine is a significant producer of steel nails. However, Petitioner argues that the Philippines is not a significant producer of nails.

Importantly, the Tariff Act of 1930, as amended ("the Act") does not define the phrase "significant producer."[37] Certain legislative history suggests that the Department may consider a country to qualify as a "significant producer" if, among other things, it is a "net exporter" of identical or comparable merchandise.[38] However, that text does not define the phrase "net exporter" or explain whether a potential surrogate country must constitute a net exporter in terms of quantity, value, or both to fit the example provided in the legislative history.[39] As a result, this ambiguous provision of the Act does not compel the Department to define "significant producer" in any particular manner.[40]

The Department finds that for this industry, the Philippines, Thailand, and Ukraine are significant producers based on export quantities.[41] Our practice is to consider quantity, rather than value, in determining whether a country is a significant producer because quantities are not subject to influence from outside variables, such as currency fluctuations and inflation, among other external pressures. Therefore, the Department finds that in terms of quantity, the Philippines, Thailand, and Ukraine are all exporters of steel nails.[42] Accordingly, the Department finds that there is significant record evidence for this review to support a finding that the Philippines, Thailand, and Ukraine are significant producers of comparable merchandise.

C. Data Considerations

Department's Position:
We agree with Petitioner that Thailand offers the best available SV information. As noted

[37] *See* section 773(c)(4)(B) of the Act; *see also Policy Bulletin*.
[38] *See* Conference report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590, 1988 U.S.C.C.A.N. 1547, 1623 (1988).
[39] *Id.*
[40] *See Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).
[41] *See Preliminary Results*.
[42] The Department has found the following export levels for the Philippines, Thailand, and Ukraine: the Philippines 1,602 kilograms; Thailand 11,494,565 kilograms; and Ukraine 21,609,028 kilograms. *See* Preliminary Decision Memorandum.

above, we conclude for the final results that the Philippines, Thailand, and Ukraine are all economically comparable to the PRC and significant producers of comparable merchandise. The *Policy Bulletin* states that, if more than one country satisfies the economically comparable and significant producer criteria for surrogate country selection purposes, "then the country with the best factors data is selected as the primary surrogate country."[43] Specifically, the *Policy Bulletin* explains further that "data quality is a critical consideration affecting surrogate country selection" and that "a country that perfectly meets the requirements of economic comparability and significant producer is not much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable."[44]

Section 773(c)(1) of the Act instructs the Department to value the FOPs with the best available information from a market economy country, or countries, that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, representative of a broad market average, and specific to the inputs in question.[45] The Department's preference is to satisfy the breadth of the aforementioned selection criteria.[46] Moreover, it is the Department's practice to carefully consider the available evidence in light of the particular facts for each industry when undertaking its analysis of valuing FOPs.[47] The Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the best available SV for each input.[48]

No party argued for valuing inputs from Colombia, Costa Rica, Indonesia, or South Africa, or argued that one of these countries be selected as the surrogate country. The Department does not have any information on this record suggesting that any of these four countries would be appropriate surrogate countries for this case. Therefore, we have not considered them for surrogate country purposes. As a consequence, the Department has examined the available record evidence from the Philippines, Thailand, and Ukraine.

Xi'An Metals argues for the Philippines, and in the event the Philippines is not selected, proposes using Ukraine. Petitioner contends that Thailand offers the best available information for SVs. After examining all of the SV choices, the Department finds that the Thai data on the record is superior and offers the best information available for SVs.

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[43] *See Policy Bulletin*.
[44] *Id*.
[45] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53709 (September 8, 2006) and accompanying Issues and Decision Memorandum at Comment 3.
[46] *See, e.g., Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011) and accompanying Issues and Decision Memorandum at Comment 2.
[47] *See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) ("*Mushrooms*") and accompanying Issues and Decision Memorandum at Comment 1; *see also Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002) ("*Crawfish*") and accompanying Issues and Decision Memorandum at Comment 2.
[48] *See, e.g., Mushrooms* at Comment 1.

No party raised concerns regarding the broad market average of the potential surrogate value sources that, per its practice, the Department evaluates in the SV and surrogate selection process. In the section below, we analyze each of the parties' comments on SVs in detail as they pertain to the Department's remaining criteria (*i.e.*, specificity, contemporaneity, public availability, and tax and duty exclusivity) for selecting surrogate values.

1. Specificity of Inputs

We agree with Petitioner that the Thai tariff schedule and import data is more specific than the Philippine and Ukraine data as it better captures the specific carbon content of respondents' reported wire rod and steel plate. Specifically, the Thai GTA data for steel wire rod less than 14 mm in diameter on the record contain 12 HTS categories of different carbon content ranges and the Thai GTA data for steel plate contain eight categories of different carbon content ranges. As a result, of the Thai GTA data's categories which more narrowly define carbon content and chemical specificity, the Department is able to calculate a more accurate dumping margin because it is able to use SVs which are more specific to factors of production each respondent used during the POR.

With regard to Xi'An Metals' statement Thai wire rod data is overly-narrow concerning the carbon content and that the Department should value wire rod using Philippine import data instead, we disagree. In *Steel Wire Hangers*, the Department found that "Petitioner has not explained why it views the Thai sources to be more specific" and "{t}hat an HTS category {that} extends to eight-or eleven-digits does not, on its own, render the source more specific relative to a six-digit HTS category."[49] In this case, the Department is not basing its finding of specificity solely on the digit length of the HTS category. Instead, we find that the 11-digit Thai HTS categories provide for more specific carbon content that are representative of the carbon content for wire rod that respondents have themselves submitted. Specifically, for low carbon wire rod, Stanley consumed grade Q235 low carbon wire rod, with carbon content between 0.12 percent and 0.20 percent.[50] The Philippine data only offers two HTS categories for this range of carbon content and up to 0.60 percent carbon content.[51, 52] On the other hand, the Thai data provides three different HTS categories that are more specific to this carbon content range (*i.e.*, "Containing By Weight More Than 0.10% But Not More Than 0.18% Of Carbon, " "Containing By Weight More Than 0.10% But Not More Than 0.15% Of Carbon," and "Containing By Weight More Than 0.15% But Not More Than 0.23% Of Carbon."[53] Xi'An Metals consumes

[49] *See Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 ("*Steel Wire Hangers*") and accompanying Issues and Decision Memorandum at 11.

[50] *See* Letter from Stanley, to the Department, regarding "Fifth Administrative Review of Certain Steel Nails from The People's Republic of China; Section D Questionnaire Response of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.," dated February 21, 2014 ("Stanley February 21, 2014 submission") at D-11.

[51] The Philippine HTS categories are HTS 7213.9199.01, "Containing By Weight Less Than 0.60% of Carbon" and HTS 7213.91.10.01, "Containing By Weight Less Than 0.60% Carbon."

[52] *See* Letter from Xi'An Metals, to the Department, regarding "Steel Nails from the People's Republic of China: Surrogate Values for the Preliminary Results," dated April 4, 2014 ("Xi'An Preliminary SV Comments") at Exhibit SV-1.

[53] *See* Memorandum to the File, through Scot Fullerton, Program Manager, Office V, from Susan Pulongbarit, Senior International Trade Analyst, AD/CVD Operations, Office V, "Fifth Antidumping Duty Administrative

low carbon wire rod with a carbon content not more than 0.2 percent of carbon.[54] Once again, the Philippine data only offers two HTS categories for this range of carbon content[55], whereas the Thai data has seven different HTS categories that are specific to this carbon content range (*i.e.*, "Containing By Weight Not More Than 0.06% Of Carbon," Containing By Weight More Than 0.06% But Not More Than 0.10% "Of Carbon," "Containing By Weight More Than 0.10% But Not More Than 0.18% Of Carbon," "Containing By Weight More Than 0.10% But Not More Than 0.18% Of Carbon," "Containing By Weight More Than 0.18% But Not More Than 0.40% Of Carbon," "Containing By Weight Not More Than 0.10% Of Carbon," "Containing By Weight More Than 0.10% But Not More Than 0.15% Of Carbon," and "Containing By Weight More Than 0.15% But Not More Than 0.23% Of Carbon").[56] With respect to medium carbon wire rod, Stanley consumes Grade 40 wire rod with a carbon content ranging from 0.37 percent to 0.44%.[57] The Philippine data only provides one HTS category for this carbon content range,[58] which includes all wire that contains 0.60 percent or more of carbon. The Thai data, however, contains three HTS categories for this carbon content range (*i.e.*, "Containing By Weight More Than 0.18% But Not More Than 0.40% Of Carbon," "Containing By Weight More Than 0.40% But Not More Than 0.45% Of Carbon," and "Containing By Weight More Than 0.45% But Not More Than 0.50% Of Carbon").[59] Moreover, Xi'An Metals' medium wire rod carbon content range is from 0.25 percent to 0.60 percent.[60] As opposed to the one Philippine HTS category for medium wire rod,[61] Thai data contains five different HTS categories for this carbon content (*i.e.*, "Containing By Weight More Than 0.40% But Not More Than 0.45% Of Carbon," "Containing By Weight More Than 0.45% But Not More Than 0.50% Of Carbon," "Containing By Weight More Than 0.55% But Not More Than 0.60% Of Carbon," "Containing By Weight More Than 0.40% But Not More Than 0.45% Of Carbon," and "Containing By Weight More Than 0.45% But Not More Than 0.50% Of Carbon").[62]

Moreover, the Department previously stated in *Nails AR3* that carbon content is an important physical characteristic of steel wire rod as it is part of the steel grade of type and is one of the physical characteristics for the CONNUM.[63] Additionally, the carbon content is one of the explicit characteristics that are listed on purchase documents provided by suppliers.[64]

Review of Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Results," dated concurrently with this memorandum ("Final SV Memo") for full HTS descriptions.

[54] *See* Letter from Xi'An Metal, to the Department, regarding Steel Nails from the People's Republic of China: Supplemental Response, dated August 7, 2015 ("Xi'An Metals August 7 Submission") at Exhibit 2SQ-7.

[55] The Philippine HTS category for Xi'An Metals' low carbon wire rod is HTS 7213.91.99.01, "Containing By Weight Less Than 0.60% of Carbon" and HTS 7213.91.10.01, "Containing By Weight Less Than 0.60% Carbon."

[56] *See* Final SV Memo for full HTS descriptions.

[57] *See* Stanley February 21, 2014 submission at D-11.

[58] The Philippine HTS category for Stanley's medium carbon wire rod is HTS 7213.91.91.02, "Containing By Weight 0.60% Or More Of Carbon."

[59] *See* Final SV Memo for full HTS descriptions.

[60] *See* Xi'An Metals August 7 Submission at Exhibit 2SQ-7.

[61] The Philippine HTS category for Xi'An Metals' medium carbon wire rod is HTS 7213.91.91.02, "Containing By Weight 0.60% Or More Of Carbon."

[62] *See* Final SV Memo for full HTS descriptions.

[63] *See Certain Steel Nails From the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR March 18, 2013 ("*Nails AR3*") and accompanying Issues and Decision Memorandum at 18.

[64] *See* Stanley February 21, 2014 submission at 24 and D-11; *see also* Memorandum to the File, through Scot Fullerton, Program Manager, Office V, Enforcement and Compliance, from Matthew Renkey, Senior Analyst,

The Philippine import data for the primary carbon steel inputs in this case, steel wire rod and steel plate, are less specific than the Thai data. Specifically, the Philippine import data for low carbon and medium wire rod only contain three ten-digit HTS categories, compared to the 12 11-digit HTS categories of differing carbon content ranges for the Thai data. We note that the two 10-digit HTS categories for low carbon both share the same description (*i.e.*, "Containing By Weight Less Than 0.60% Of Carbon").[65] With respect to Philippine steel plate import data, there are only two six-digit HTS categories on the record, compared to eight 11-digit HTS categories of differing carbon content ranges for the Thai data.[66, 67]

Regarding Xi'An Metals' assertion that the Department should value wire rod using Ukrainian Metal Expert prices, we disagree. As noted by Petitioner, the Ukrainian Metal Expert prices' carbon content distinctions are very broad such that there is only one category for low carbon rod (wire rod 0.22 percent and below) and only one category for medium/high carbon wire rod (wire rod above 0.22 percent). Accordingly, we do not find these prices are the most specific, and therefore, the best available prices on the record, in comparison to Thai import data.

With respect to Xi'An Metals' argument that Ukrainian import data are more reliable than Thai data, we disagree. Ukrainian import data only provides for two HTS categories for low carbon wire rod and one for HTS category for medium carbon wire rod. In *Nails AR3*, we found that Ukrainian import data for steel plate was not as specific to Thai import data because Thai import data were broken out by carbon content, while there is no delineation for carbon content in the Ukrainian data.[68] Because the facts for this administrative review are the same, we continue to find that Ukrainian import data are not as good as Thai data.

Moreover, as determined at the *Preliminary Results*, the record lacks Philippine and Ukrainian SV data for several of Stanley's other material inputs such as copper-coated collating wire, several chemical inputs, and several packing materials.[69] The Department continues to find that Thailand is the only country on the record that contains SVs for both respondents' material inputs.

2. Reliability of Data

With regard to Xi'An Metals concerns over the reliability of the Thai import data as outlined in the USTR reports, we disagree. In two recent cases, *Xanthan Gum* and *Certain Steel Threaded Rod from the PRC*, the Department determined that these USTR reports do not make Thai import data unreliable, and we declined to conclude that all Thai import data should be rejected due to

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Office V, Enforcement and Compliance, Susan Pulongbarit, Senior Analyst, Office V, Enforcement and Compliance, "Verification of the Questionnaire Responses of The Stanley Works (Langfang) Fastening Systems Co., Ltd. ("Stanley Langfang") in the 2012-2013 Antidumping Duty Review of Certain Steel Nails from the People's Republic of China ("PRC"), dated February 9, 2014, at Exhibit 11.

[65] *See* Letter from Xi'An Metals, to the Department, regarding "Steel Nails from the People's Republic of China: Final Surrogate Value Submission and Pre-Preliminary Comments," dated August 19, 2014 ("Xi'An Metals August 19 SV Comments") at Exhibit SV-2.

[66] *Id.*; *see also* Final SV Memo.

[67] *See* Xi'An Metals August 7 Submission at Exhibit 2SQ-7 indicating Xi'An Metals' carbon content for steel plate.

[68] *See Nails AR3* and accompanying Issues and Decision Memorandum at 16.

[69] *See Preliminary Results* at 14.

the reports.[70] With regard to the USTR reports, we explained that although "the United States has expressed concern over the practices of Thailand's Customs Department Officials, we cannot conclude from {the} report that the entirety of the Thai import should, therefore, be rejected as unreliable."[71] The report does not address any of the raw material inputs that are consumed by the respondents in this administrative review but instead presents concerns with respect to the practices of Thailand's Customs Department officials.[72] As a result, the Department cannot conclude from this report that the entirety of the Thai import data should be rejected.

With respect to the WTO reports cited by Xi'An Metals, the Department finds that these reports discuss primarily the importation of cigarettes and alcohol, neither of which are relevant in the context of this administrative review.[73] Because the WTO reports do not address any of the material inputs consumed by the respondents but instead presents concerns regarding the importation of certain merchandise unrelated to this administrative review, the Department cannot conclude from these reports that the entirety of the Thai import data should be rejected. Further, the FedEx Country Report of Thailand cited by Xi'An Metals expresses concerns similar to the USTR reports but does not provide additional detail or evidence that would cause the Department to determine that Thai data are overall inferior. Importantly, this report does not provide conclusive evidence to serve as the bases for rejecting the entirety of Thai import data as unreliable. Similar to the USTR reports, this report expresses general concerns about the Thai government's customs practices, this report does not address any of the raw material inputs specific to this proceeding.[74] Therefore, we continue to find in this case that the USTR reports and FedEx Country Report do not lead us to reject all Thai import data as unreliable.

With respect to Xi'An Metals' argument that Thai Customs' manipulation of import prices is analogous to the Department's practice of disregarding exports from countries that maintain broadly available, non-industry-specific export subsidies and should be excluded, as a result, we disagree. When calculating import-based, per-unit SVs, the Department disregards import prices that it has reason to believe or suspect may be dumped or subsidized.[75] It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices are not dumped or subsidized; rather, the Department bases its decision on information that is available to it at the time it makes its determination.[76] That said, the Department must find specific and objective evidence to support its reason to believe or suspect

[70] *See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) ("*Xanthan Gum*") and accompanying Issues and Decision Memorandum at Comment 1; and *Certain Steel Threaded Rod From the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013) and accompanying Issues and Decision Memorandum at Comment 1 ("*Steel Threaded Rod from the PRC*").
[71] *See Xanthan Gum* at Comment 1.
[72] *Id.*
[73] *See* Xi'an Metals August 19 SV Comments at Exhibits SV-4 and SV-5.
[74] *See* Letter from Xi'An Metals, to the Department, regarding "Steel Nails from the People's Republic of China: Surrogate Values for the Preliminary Results," dated March 4, 2014 (Xi'An Metal's March 4 SV Comments) at Exhibits SV1-SV3.
[75] *See Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71743 (December 3, 2014) and accompanying Issues and Decision Memorandum at 6.
[76] *Id.*, at 6-7.

the existence of dumping or subsidies.[77] Regarding the alleged manipulation of Thai import prices, although the reports cited by the Xi'an Metals indicate that the United States has expressed concern over the practices of Thailand's Customs Department officials, we cannot conclude from the repotis that the entirety of the Thai import data under consideration should be rejected as unreliable. As indicated in *Xanthan Gum from the PRC*, while these reports express concern about Thailand's Customs Department's valuation of imports, they do not provide conclusive evidence to reject the entirety of the Thai import data as unreliable.[78]

We disagree with Xi'An Metals' argument that the Thai military coup renders Thai import data to be unrepresentative and unreliable. As noted above, it is the Department's practice to focus on several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, representative of a broad market average, and specific. Xi'An Metals has neither provided any evidence on the record as to why the military in coup affects the criteria considered by the Department nor how specific inputs are affected.

3. Financial Statements

When selecting surrogate values, including financial statements for purposes of calculating financial ratios, the Department's policy is to use data from market economy surrogate companies based on the "specificity, contemporaneity, and quality of the data."[79] In accordance with 19 CFR 351.408(c)(4), the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing, overhead, general expenses, and profit.[80]

As stated in the *Preliminary Results*, the Department finds that there are useable financial statements on the record from Thailand, L.S. Industries Co. ("LSI").[81] These statements are contemporaneous, from a producer of identical merchandise, and publicly available. Therefore, we find the Thai statements to meet the Department's selection criteria.

The record contains three contemporaneous statements from Philippine companies.[82] While two of the companies, APO Industries, Inc. and Sterling Steel Incorporated, are producers of identical merchandise, we find that the third company, Benedicto Steel Corporation, is overwhelmingly a trader/re-seller, rather than a producer.[83]

With regard to Xi'an Metal's assertion that the Department should value selling, general and

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[77] *Id*., at 7.
[78] *See Xanthan Gum* and accompanying Issues and Decision Memorandum at Comment 1.
[79] *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006) ("*CLPP*") and accompanying Issues and Decision Memorandum at Comment 1.
[80] *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049 (September 12, 2007) and accompanying Issues and Decision Memorandum at Comment 2.
[81] *See* Xi'An Metals August 19, 2014, SV Comments at Exhibits SV-17.
[82] *Id.*, at Exhibits SV3-SV5.
[83] *Id.*, at SV-5. Specifically, the Department notes that Benedicto Steel Corporation's "Purchases and importation charges" values in comparison to its "Inventories" values suggest that the company is overwhelmingly a trader/re-seller than a producer.

administrative ("SG&A"), manufacturing overhead, and profit using the Ukrainian financial statement from Dneprometiz, we disagree. Importantly, the Dneprometiz financial statement is from the 2011 fiscal year, putting it outside of the 2012-2013 POR. As discussed below, the Department previously declined to use it because it is not publicly available, and there is no information on the record of this review bringing that conclusion into doubt.[84] As a result, we do not find Ukraine to have any useable financial statements.

Concerning Xi'An Metals' argument that the Department should select the Philippines as the primary surrogate country because there are multiple Philippine financial statements on the record, we disagree. As stated in the *Preliminary Results*, the Department bases its surrogate country selection on a whether a country is economically comparable to that of the NME country, whether it is a significant producer of merchandise, and if there is available and reliable data from that country.[85] As such, the Department's criteria are not merely based on the availability of multiple financial statements. Specifically, when available, the Department prefers financial statements that are from a producer of identical merchandise and otherwise meet our selection criteria. In addition, because the Department prefers to value all SVs from one surrogate country,[86] the financial statement should also be from a surrogate country with SV information on the record to value all inputs. Because Thailand is the only country that contains all SVs to value all inputs from both respondents on the record,[87] including a financial statement from an identical producer of subject merchandise, we will not select the Philippines as the primary surrogate country.

4. Tax Exclusivity

With respect to Xi'An Metals' assertion that the Department should value wire rod using Ukraine Metal Expert prices despite the fact that the values are inclusive of VAT and seller mark-ups,[88] we disagree. As stated above, one of the Department's criteria for selecting SVs is tax and duty exclusivity. Because Ukraine Metal Expert data do not satisfy this criterion, and because other sources do satisfy this criterion, it is not appropriate to use for valuing wire rod.

5. Contemporaneity

As stated in the *Preliminary Results*, only Thailand and the Philippines have contemporaneous financial statements from producers of identical merchandise.[89] We note that this has not changed for these final results.

6. Public Availability

With respect to Xi'An Metals assertion that the Ukrainian financial statement from Dneprometiz

[84] *See Nails AR3* and accompanying Issues and Decision Memorandum at 14-15.
[85] *See Preliminary Results* and accompanying Preliminary Decision Memorandum at 10.
[86] *See* 19 CFR 351.408(c)(2); *see also, e.g., Clearon Corp. v. United States*, 2013 CIT LEXIS 27, Slip Op. 13-22, Ct. No. 08-00364 (February 20, 2013) at 12 (upholding the Department's preference for valuing SVs from a single surrogate country).
[87] *See* Preliminary Decision Memorandum.
[88] *See* Xi'An Metals Case Brief at 7.
[89] *See* Preliminary Decision Memorandum.

is publicly available,[90] we disagree. As stated in *Nails POR3*, this document is a market report providing summary information about Dneprometiz.[91] Because no additional information on the record disproves this previous determination we continue to find that it is not publicly available.

Comment 2: Steel Wire Rod SV Source

***Xi'an Metals' Arguments*:**

- Thai GTA steel wire rod import data should be rejected because it is aberrantly high when compared to World Bank, Metal Expert ("MEPS"), and Asian Metal Market prices.[92]
- If the Department maintains Thailand as the surrogate country, it should rely on domestic Thai prices to value wire rod (*i.e.*, prices from Thai Bureau of Economic Trade or Tata Steel).[93]
- Otherwise, the Department should value wire rod using world benchmark data on the record (*i.e.*, World Bank, MEPS, or Asian market prices), World Bank prices, or average import prices from other countries that are at an equal economic level as the PRC.[94]

Petitioner's Arguments:

- Steel import data provided as benchmark information are insufficient for establishing whether the Thai steel wire rod SVs are aberrational. Specifically, the benchmark data consists of World Bank, MEP, and Asian Metal Market data, which are all devoid of chemical content. These values compare unfavorably to the carbon content specific, 11-digit level Thai HTS data.[95]
- The Asian Metal Market data consist of prices from Malaysia, India, and the PRC, none of which are countries listed in the Surrogate Country Memo.[96]
- The domestic Thai data do not make any carbon content distinctions.[97] Further, the Tata Steel prices are price quotes.[98]

Department's Position:

With respect to Xi'An Metals' argument that Thai import data are aberrational when compared to World Bank, Metal Expert, and Asian Metal Market prices, we disagree. When determining whether data are aberrational, the Department has found that the existence of higher prices alone does not necessarily indicate that the price data are distorted or misrepresentative, and thus is not a sufficient basis upon which to exclude a particular SV.[99] If a party presents sufficient evidence to demonstrate a particular SV is aberrational, and therefore unreliable, the Department will examine all relevant price information on the record, including any appropriate benchmark data,

[90] *See* Xi'An Metals Case Brief at 7.
[91] *See Nails AR3* and accompanying Issues and Decision Memorandum at 14-15.
[92] *See* Xi'An Case Brief at 21.
[93] *Id.*, at 24.
[94] *Id.*, at 27.
[95] Petitioner Rebuttal at 7.
[96] *Id.*, at 8.
[97] *Id.*
[98] *Id.*, at 9.
[99] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 56158 (September 12, 2011) and accompanying Issues and Decision Memorandum at Comment 12.

in order to accurately value the input in question. With respect to benchmarking, the Department's current practice is to examine import data for potential surrogate countries for a given case, to the extent such import data are available, and/or examine data from the same HTS category for the surrogate country over multiple years to determine if the current data appear aberrational compared to historical values.[100]

The Department finds that none of the datasets suggested by Xi'An Metals serve as reliable benchmark data to determine whether Thai wire rod import data are aberrational. The World Bank GEM data on the record are unclear regarding which countries were used to calculate the steel wire rod prices, so the Department is unable to determine whether the information is from countries that are non-market economy countries.[101] Moreover, the World Bank prices do not make any distinction for carbon content. The Department previously stated in *Nails AR3* that carbon content is one of the most important physical characteristic as it is one of the physical characteristics for the CONNUM.[102] As a result, we find that comparing World Bank data to the Thai import data would not be an "apples to apples comparison."[103]

The Department finds that MEPS data also suffers from similar deficiencies. MEPS notes state that the prices are "derived from an arithmetic average of the low transaction values identified in Japan, Taiwan, South Korea, and China."[104] The Department notes that none of these countries are at the same level of economic development as the PRC, as required. Additionally, similar to the World Bank prices, MEPS data do not make any distinction for carbon content.

With respect to Asia Metal Market prices, a close examination of this data shows that the wire rod prices are derived from Malaysia, India, and China.[105] As noted above, the Department will examine as benchmark data information from potential surrogate countries. We find that none of the countries used in the Asia Metal Market prices are potential surrogate countries as described in the Department's surrogate country criteria explained above.

Regarding Xi'an Metals' argument the Department should disregard Thai import data of steel wire rod because Thai import and export data show that Thai import prices are higher than export prices, we disagree. As noted above, when determining whether data is aberrational, the Department compares data from the same HTS category for the surrogate country and/or potential surrogate countries over multiple years. The Thai import data put forth by Xi'an Metals in their argument does not include any of the 11-digit HTS categories used to value wire rod at the *Preliminary Results*, but six-digit HTS categories that Xi'An Metals has chosen on its own to use for their analysis. As a result, we do not find that the Thai import and export data allows us to make an appropriate comparison in order to determine if the data is aberrational.

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[100] *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results, Partial Rescission, Extension of Time Limits for the Final Results, and Intent to Revoke, in Part, of the Sixth Antidumping Duty Administrative Review*, 77 FR 12801, 12807-08 (March 2, 2012); *Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 36630 (June 28, 2010) and accompanying Issues and Decision Memorandum at 6.
[101] *See* Xi'an Metals August 19 SV Comments at Exhibit SV-13.
[102] *See Nails AR3* at Comment 1.
[103] *Id.*
[104] *See* Xi'an Metals August 19 SV Comments at Exhibit SV-13.
[105] *Id.*

Regarding Xi'An Metals' argument that if the Department continues to select Thailand as the primary surrogate country, it should instead rely on domestic Thai data rather than the Thai GTA data, the Department disagrees. Specifically, as noted above, respondents consume steel wire of a certain carbon content range and we find that the six-digit Thai import data[106] does not approximate these carbon content ranges as specifically as the descriptions in the 11-digit Thai import data. This is important when determining specificity because carbon content is one of the physical characteristics of the CONNUM[107] and characteristics listed in wire rod mill certificates. As such, we do not find domestic Thai data to be the best available information on the record.

With respect to the Tata steel prices, we note that these are price quotes and not prices reflective of actual transactions.[108] The Department has a strong preference not to rely on price quotes for factor valuation purposes because such quotes do not represent actual transaction prices.[109] The Department further finds that it normally does not know the conditions under which price quotes were solicited and whether or not they were self-selected from a broader range of quotes.[110] The Department also determines that price quotes represent the experience of one or two price offers, rather than actual transactions, and are not necessarily representative of commercial prices.[111] Thus, given their deficiencies with regard to specificity, broad market average and contemporaneity criteria, and given the uncertainty with regard to how these price quotes were obtained and selected, we do not find that the price quotes on the record of this segment of the proceeding constitute the best information available, especially given that other suitable sources are on the record as explained below.

Regarding Xi'An Metals argument regarding using World Bank, MEPS, or Asian Metal Market prices as SVs, we disagree. The Department prefers to value SVs from a single country.[112] As noted above, it is unclear what countries were used to calculate the World Bank data, while the MEPS and Asian Metal Market prices include data from countries that are not economically comparable. As a result, the Department determines that these prices are not the best available information on the record. Therefore, we will continue to use Thai GTA data to value respondents' steel wire rod.

Comment 3: Which HTS Categories to Use for the SV for Steel Wire Rod

Petitioner's Arguments:

- The Department should value Stanley's low carbon wire rod using the HTS categories

[106] *Id.*, at Exhibit SV-8.
[107] *See Nails AR3* at Comment 1.
[108] *See* Xi'an Metals August 19 SV Comments at Exhibit SV-12.
[109] *See Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010) ("*Pure Magnesium*") and accompanying Issues and Decision Memorandum at Comment 10.
[110] *Id*.
[111] *See Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China*, 69 FR 67304 (November 17, 2004) and accompanying Issues and Decision Memorandum at Comment 6.
[112] *See* 19 CFR 351.408(c)(2).

7213.91.90.012, 7213.91.90.034 and 7213.91.90.035.[113]

- The Department should value Stanley's medium carbon wire rod using the HTS categories 7213.91.00.013, 7213.91.00.014 and 7213.91.00.023.[114]
- The Department should value Xi'An Metals' medium carbon wire rod using the HTS categories 7213.91.90.014, 7213.91.90.015, 7213.91.90.017, 7213.91.90.023, 7213.91.90.024, and 7213.91.00.013.[115]

No other parties commented on this issue.

Department's Position:
As noted above, when considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, representative of a broad market average, and specific to the inputs in question.[116]

With respect to Petitioner's argument that Stanley's low carbon wire rod should be valued using SVs with carbon content between 0.12 percent and 0.20 percent, we agree. In the *Preliminary Results*, the Department inadvertently included HTS categories that were outside of the carbon content range for Stanley's low carbon wire rod (*i.e.*, HTS categories 7213.91.90.010, 7213.91.90.011, 7213.91.90.013, 7213.91.90.033). In order to calculate a SV as specific as possible to Stanley's experience, the Department will calculate Stanley's low carbon wire rod SV using HTS categories 7213.91.90.012, 7213.91.90.034 and 7213.91.90.035.

Similarly, regarding Petitioner's assertion that the Department should value Stanley's medium carbon wire rod using SVs with carbon content ranging from 0.37 percent to 0.44 percent, we agree. In the *Preliminary Results*, the Department inadvertently excluded an HTS category within the range of Stanley's carbon content for medium wire rod (*i.e.*, 7213.91.00.013). Accordingly, for the *Final Results*, the Department will calculate Stanley's medium carbon wire rod SV using HTS categories 7213.91.00.013, 7213.91.00.014 and 7213.91.00.023.

Regarding Petitioner's concerns that the Department should value Xi'an Metals' medium carbon wire rod using SVs with carbon content between 0.25 percent and 0.60 percent, we agree. In the *Preliminary Results*, the Department inadvertently excluded an HTS category within the range of Xi'an Metals' reported carbon content for medium wire rod (*i.e.*, HTS category 7213.91.90.013). For the *Final Results*, the Department will revise its calculation of Xi'An Metals' medium wire rod to include all HTS categories with carbon content ranging from 0.25 percent and 0.60 percent, including HTS category 7213.91.90.013.

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[113] *See* Letter from Petitioner, to the Department, regarding "Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China (2012-2013): Petitioner's Case Brief," dated February 18, 2015 ("Petitioner Case Brief") at 13.
[114] *Id.*, at 14-15.
[115] *Id.*, at 15.
[116] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53709 (September 8, 2006) and accompanying Issues and Decision Memorandum at Comment 3.

Comment 4: Treatment of Two Labor-Related Line Items in the Financial Ratio Calculations

Petitioner's Arguments:

- The Department failed to properly account for SG&A labor in preliminarily calculating normal value ("NV"), and should follow the CIT's guidance when it remanded an identical issue in *Elkay*.[117]
- Because the data source used to value labor includes both production and non-production costs, the Department removed all labor costs relating to SG&A in calculating the surrogate financial ratios.
- However, because respondents' labor FOPs reflect only those labor hours used for production, removing all SG&A labor from the SG&A ratio calculation fails to appropriately capture non-production labor when calculating normal value. The Department should therefore include the non-production labor line items to ensure inclusion of all SG&A labor costs in normal value.

Xi'an Metals' Arguments:

- The Department properly accounted for all labor-related expenses in the calculation of its financial ratios according to its labor methodology.
- Petitioner's reliance on *Elkay* is misplaced because that litigation is not final and is pending a motion for reconsideration.

Stanley's Arguments:

- In the column under the heading "SG&A and Interest" the Department plainly included an amount for "Salary and Bonus." The Department, thus, did not remove the non-production labor expenses from its SG&A ratio calculation. All other labor expenses are accounted for as direct labor.

Department's Position:

We agree with Petitioner, in part. We note that our analysis has evolved from that used in the preceding administrative review,[118] and in the preliminary results in this review in part because of *Elkay*, which, despite not being final, informs the Department's consideration of this issue.

At issue are whether we properly accounted for SG&A-related labor, and the classification of two labor-related line items in the 2012 financial statements of LS Industry Co., Ltd. ("LSI"). The record demonstrates that in LSI's financial statements, the salary for selling and administrative staff and/or welfare benefits were unambiguously classified under a separate section (*e.g.*, selling and administrative expenses) from the cost-of-production or cost-of-good-sold section (which included labor costs).

First, notwithstanding that the record shows that the Thailand National Statistics Office ("NSO") 2007 labor data used to calculate the labor SV was derived from an average remuneration paid

[117] *Elkay Mfg. Co. v. United States*, Slip Op. 14-150 (CIT 2014) ("*Elkay*").
[118] *See Certain Steel Nails from the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review*, 79 FR 19316 (April 8, 2014), and accompanying Issues and Decision Memorandum at Comment 2.B.

for persons engaged in various manufacturing and non-manufacturing activities, it does not follow that the labor expenses calculated using the NSO labor rate capture all labor expenses. This is because under the factors of production methodology for calculating NV, labor expenses capture the labor cost only for manufacturing—obtained by multiplying a respondent's reported direct and indirect labor hours to manufacture subject merchandise by the surrogate labor rate (*e.g.*, the Thai NSO labor rate or the ILO Chapter 6A labor rate). The respondents did not report labor hours associated with the selling and administrative staff, as this is not requested in our NME questionnaire.[119] Thus, staff labor costs must be included in the SG&A expenses, and the SG&A labor expenses in each surrogate company's financial statement must be included in the numerator of the SG&A ratio associated with that company. In other words, the SG&A labor expenses listed in LSI's financial statements must be classified under the SG&A expenses and included in the respective numerator of the SG&A ratio calculation, as the Department properly did by including the "Salary and Bonus" line item from LSI's "Total Cost of Management" in our SG&A buildup in the financial ratio calculations. We properly did so in the *Preliminary Results* and continue to do so for these final results.

Second, under LSI's "Total Cost of Management" section, for the *Preliminary Results*, we classified two items under "Labor," which were "Welfare" and "Social Security and Compensation." Nonetheless, it is the Department's practice to treat labor in its financial ratio calculations in the same manner the surrogate company disaggregates its labor costs.[120] This is because the nature of the information that serves as the source for financial ratio calculations in NME cases (*i.e.*, surrogate financial data from a company that is not a party to the proceeding) does not allow the Department to "go behind" a surrogate financial statement to determine precisely what each item includes or to what activity it relates.[121] Therefore, when assigning various line items to particular categories for financial ratio calculations, the Department prefers to rely on the classification of these items from the surrogate financial statements, unless there is good reason to believe the classification is not accurate.[122] As stated above, in LSI's financial statements, the aforementioned items were classified under the "Total Cost of Management" section along with other SG&A-related items, separate from the cost-of-production or cost-of-goods-sold section. Thus, for these final results, we treat these SG&A-type labor costs as SG&A expenses in LSI's surrogate financial ratio calculation.

Comment 5: Brokerage and Handling

Xi'an Metals' Arguments:

- The Department improperly used a 10,000 kilogram denominator for Brokerage and Handling ("B&H") expenses and inland freight costs from the *Doing Business: Thailand 2013* report.[123]
- Neither the World Bank nor any record source states that 10,000 kilograms is the standard

[119] *See* the January 13, 2014, questionnaires issued to the mandatory respondents at Section D, page D-8.
[120] *See Certain Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71743 (December 3, 2014) and accompanying Issues and Decision Memorandum at Comment 3.
[121] *Id.*
[122] *Id.*
[123] *See* Xi'An Metals Case Brief at 27.

cargo weight of a 20-foot container.[124]

- The Trading Across Borders report states that contributors should assume the provided information is for a 20-foot container weighing 10,000 kilograms. The 10,000 kilogram weight parameter could relate to any number of other issues that the Department did not focus on.[125]
- Evidence on the record indicates that B&H prices are based on an entire container and not weight.[126]
- If the Department continues to rely on the *Doing Business: Thailand 2013* report, it should calculate B&H and inland freight costs using the actual reported cost of the numerator and use other record information to assign the denominator weight or volume to derive the unit cost (*i.e.*, the maximum weight of a 20-foot container or Xi'An Metals' average weight per 20-foot container).[127]

Petitioner's Arguments:

- The Department has previously determined that the World Bank's *Doing Business* publication is reliable.[128]
- The Department confirmed the reliability of the 10,000-kilogram denominator in *Multilayered Wood Flooring*.[129]

Department's Position:

In valuing FOPs, section 773(c)(1) of the Act instructs the Department to use the "best available information" from the appropriate ME country. In determining the "best available information," the Department normally considers five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data. For the final determination, we find that the World Bank publication *Doing Business: Thailand 2013* offers the best source for valuing B&H and inland freight because the data are based on broad market averages, are publicly available, are tax and duty exclusive, and are contemporaneous.

With regard to Xi'An Metals' argument that the 10,000-kilogram denominator should be revised, we disagree. The Department previously determined that the 10,000-kilogram denominator should be used to calculate the B&H surrogate value because this is the weight of the shipment in a 20-foot container for which participants in the *Doing Business: Thailand 2013* survey reported B&H costs.[130] Specifically, the B&H costs used to calculate the surrogate value were based upon the assumption that a 20-foot container contained 10,000 kg of product. Even Xi'An Metals admits that "contributors should assume the provided information is for a 20-foot container weighing 10,000 kilograms."[131] Conversely, if the Department were to use a different container load, as argued by Xi'An Metals, it would be using a weight not related to the costs

[124] *Id.*, at 28.
[125] *Id.*
[126] *Id.*, citing Xi'An Metals August 19 SV Comments at Exhibit SV-19.
[127] *Id.*, at 31.
[128] *See* Petitioner Rebuttal at 37.
[129] *Id.*, at 37-38, citing *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014) and accompanying Issues and Decision Memorandum at 35.
[130] *Id.*
[131] *See* Xi'An Metals Case Brief at 28.

reported in the *Doing Business* 2013 survey, which would result in an incorrect per-unit cost. Using a 10,000-kilogram denominator in the per-unit calculation 1) maintains the relationship between costs and quantity from the survey (which is important because the numerator and the denominator of the calculation are dependent upon one another), 2) makes use of data from the same source, and 3) is consistent with the Department's past practice.[132]

Comment 6: Letter of Credit Adjustment

Xi'An Metals' Argument:

- The Department should deduct the cost of obtaining an export letter of credit from B&H costs.[133]

No other parties commented on this issue.

Department's Position:

The Department agrees with Xi'An Metals that the cost of obtaining letters of credit should be excluded from the total B&H costs reported in *Doing Business: Thailand 2013*. Xi'An Metals provided evidence from the World Bank indicating that the cost of obtaining letters of credit is included in the cost of B&H.[134] Specifically, Xi'An Metals placed on the record information from the World Bank indicating that the total cost of B&H in Thailand provided in *Doing Business: Thailand 2013* includes an average flat rate cost of 60 U.S. dollars (USD) for obtaining a letter of credit.[135] We found no evidence to suggest that the respondents in this administrative review obtained letters of credit in the process of exporting the merchandise under consideration. Accordingly, for purposes of the final results, we revised the calculation of B&H by deducting the cost of 60.00USD for obtaining a letter of credit from the total cost of B&H provided in *Doing Business 2013*.[136]

Comment 7: Consideration of an Alternative Comparison Method in Administrative Reviews

Stanley's Arguments:

- The Department has no statutory authority to "conduct a targeted dumping analysis" in an administrative review, and recent decisions by the CIT have been erroneous in their reading of the relevant statutory provisions.

Petitioner's Arguments:

- There is no support for the claim by Stanley that the Department lacks legal authority to apply a differential pricing or targeted dumping analysis in administrative reviews. The statute does not require – or exclude – any particular comparison methodology in reviews.

[132] *See Nails AR3* and accompanying Issues and Decision Memorandum at Comment 3.R.
[133] *See* Xi'an Metals Case Brief at 31.
[134] *See* Xi'An Metals' April 4 SV Comments at Exhibit SV-14.
[135] *Id.*
[136] *See* Final SV Memo.

Department's Position:
We disagree with Stanley's assertion that the Department has no authority to consider the application of an alternative comparison method in administrative reviews. In numerous cases, the CIT has upheld the Department's statutory authority to employ an alternative comparison method in administrative reviews and has rejected the arguments Stanley makes in this review regarding this point.[137]

Section 771(35)(A) of the Act defines dumping margin as the "amount by which the normal value exceeds the export price or constructed export price of the subject merchandise." The definition of dumping margin calls for a comparison of normal value and export price or constructed export price. Before making the comparison called for, it is necessary to determine how to make the comparison.

Stanley argues that the Department has no statutory authority to consider the application of an alternative comparison method in administrative reviews. Stanley also states that Congress made no provision for the Department to apply an alternative comparison method in an administrative review under section 777A(d) of the Act. Indeed, section 777A(d)(1) of the Act applies to "Investigations" and section 777A(d)(2) of the Act applies to "Reviews." Section 777A(d)(1) of the Act discusses, for investigations, the standard comparison methods (*i.e.*, the average-to-average (A-to-A) method and the transaction-to-transaction (T-to-T method)), and then provides for an alternative comparison method (*i.e.*, the average-to-transaction (A-to-T) method) that may be applied as an exception to the standard methods when certain criteria have been met. Section 777A(d)(2) of the Act discusses, for administrative reviews, the maximum length of time over which the Department may calculate weighted-average normal values when using the A-to-T method. Section 777A(d)(2) has no provision specifying the comparison method to be employed in administrative reviews.

To fill the gap in the statute, the Department has promulgated regulations to specify how comparisons between normal value and export price or constructed export price would be made in administrative reviews. With the implementation of the Uruguay Round Agreements Act ("URAA"), the Department promulgated regulations in 1997, in which 19 CFR 351.414(c)(2) stated that the Department would normally use the A-to-T comparison method in administrative reviews.[138] In 2010, the Department published its *Proposed Modification for Reviews*[139] pursuant to section 123(g)(1) of the URAA. This proposal was in reaction to several World Trade Organization ("WTO") Dispute Settlement Body panel reports which had found that the denial of offsets for non-dumped sales in administrative reviews to be inconsistent with the WTO obligations of the United States. When considering the proposed revisions to 19 CFR 351.414, the Department gave proper notice and opportunity to comment to all interested parties.

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[137] *Apex Frozen Foods Private Ltd. v. United States*, No. 13-00283, Slip Op. 14-138, at 8-9 (CIT December 1, 2014); *see also DuPont Teijin Films China Ltd. v. United States*, 7 F. Supp. 3d 1338, 1355-56 (CIT 2014); *JBF RAK LLC v. United States*, 991 F. Supp. 2d 1343, 1347-49 (CIT 2014); *CP Kelco Oy v. United States*, 978 F. Supp. 2d 1315, 1321-24 (CIT 2014); *Timken Co. v. United States*, 968 F. Supp. 2d 1279, 1286 n.7 (CIT 2014) (in well-reasoned dicta).

[138] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27373-74 (May 19, 1997).

[139] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Proposed Rule; Proposed Modification; Request for Comment*, 75 FR 81533 (December 28, 2010) (*Proposed Modification for Reviews*).

Pursuant to section 123(g)(1)(D) of the URAA, in September 2011, USTR submitted a report to the House Ways and Means and Senate Finance Committees which described the proposed modifications, the reasons for the modifications, and a summary of the advice which the USTR had sought and obtained from relevant private sector advisory committees pursuant to section 123(g)(1)(B) of the URAA. Also in September 2011, pursuant to section 123(g)(1)(E) of the URAA, USTR, working with the Department, began consultations with both congressional committees concerning the proposed contents of the final rule and the final modification. As a result of this process, the Department published the *Final Modification for Reviews.*[140] These revisions were effective for all preliminary results of review issued after April 16, 2012, as is the situation for this administrative review.

19 CFR 351.414(b) describes the methods by which NV may be compared to EP or CEP in antidumping investigations and administrative reviews (*i.e.*, A-to-A, T-to-T, and A-to-T). These comparison methods are distinct from each other. When using T-to-T or A-to-T comparisons, a comparison is made for each export transaction to the United States. When using A-to-A comparisons a comparison is made for each group of comparable export transactions for which the export prices, or constructed export prices, have been averaged together (*i.e.*, for an averaging group[141]). The Department does not interpret the Act or the SAA[142] to prohibit the use of the A-to-A comparison method in administrative reviews, nor does the Act or the SAA mandate the use of the A-to-T comparison method in administrative reviews.
19 CFR 351.414(c)(1) (2012) fills the gap in the statute concerning the choice of a comparison method in the context of administrative reviews. In particular, the Department determined that in both antidumping investigations and administrative reviews, the A-to-A method will be used "unless the Secretary determines another method is appropriate in a particular case."[143]

The Act, the SAA, and the Department's regulations do not address the circumstances that could lead the Department to select a particular comparison method in an administrative review. Indeed, whereas the statute addresses this issue specifically in regards to investigations, the statute conspicuously leaves a gap to fill on this same question in regards to administrative reviews.[144] In light of the statute's silence on this issue, the Department indicated that it would use the A-to-A method as the default method in administrative reviews, but would consider whether to use an alternative comparison method on a case-by-case basis.[145] At that time, the Department also indicated that it would look to practices employed by the Department in antidumping investigations for guidance on this issue.[146]

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[140] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).
[141] *See* 19 CFR 351.414(d)(2).
[142] *See* Statement of Administrative Action (SAA), H.R. Rep. No. 103-316 (1994), *reprinted in* 1994 U.S.C.C.A.N. 4040.
[143] *See* 19 CFR 351.414(c)(1).
[144] *See* section 777A(d)(1)(B) of the Act; SAA, attached to H.R. No. 103-316, vol. 1 at 842-43 (1994), reprinted in 1994 U.S.C.C.A.N. 37773, 4163; 19 CFR 351.414.
[145] *See Final Modification for Reviews*, 77 FR at 8107.
[146] *Id.*, 77 FR at 8102.

In antidumping investigations, the Department examines whether to use the A-to-T method consistent with section 777A(d)(1)(B) of the Act:

> The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if:
>
> (i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and
> (ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii).[147]

Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of an administrative review, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in an administrative review to be analogous to the issue in antidumping investigations. Accordingly, the Department finds the analysis that has been used in antidumping investigations instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. In less-than-fair-value investigations, the Department considered an alternative comparison method to unmask dumping consistent with section 777A(d)(1)(B) of the Act.[148] Similarly, the Department considered in administrative reviews an alternative comparison method to unmask dumping under 19 CFR 351.414(c)(1).[149] For this administrative review, the Department continues to find the consideration of an alternative comparison method to be a reasonable extension of the statute where the statute made no provision for the Department to follow.

The SAA does not demonstrate that the Department may consider the application of an alternative comparison method in investigations only. The SAA does discuss section 777A(d)(1)(A)(i) of the Act, concerning the types of comparison methods that the Department may use in investigations.[150] That provision, however, is silent on the question of choosing a comparison method in administrative reviews. Section 777A(d)(1)(A) of the Act does not require or prohibit the Department from adopting a similar or a different framework for choosing a comparison method in administrative reviews as compared to the framework required by the statute in investigations. The SAA states that "section 777A(d)(1)(B) provides for a comparison

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[147] *See* section 777A(d)(1)(B) of the Act.
[148] *See, e.g., Polyethylene Retail Carrier Bags From Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 16431 (April 1, 2010); *see also Certain Stilbenic Optical Brightening Agents From Taiwan: Final Determination of Sales at Less Than Fair Value*, 77 FR 17027 (March 23, 2012); *see also Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013) (*Xanthan Gum*).
[149] *See, e.g., Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews*; 2010–2011, 77 FR 73415 (December 10, 2012); *see also Stainless Steel Plate in Coils From Belgium: Antidumping Duty Administrative Review*, 2010-2011, 77 FR 73013 (December 7, 2012); *see also Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 65272 (October 31, 2013).
[150] *See* SAA at 842.

of average normal values to individual export prices or constructed export prices in situations where an A-to-A or T-to-T comparison methodology cannot account for a pattern of prices that differ significantly among purchasers, regions or time periods."[151] Like the statute, the SAA does not limit the Department to undertake such an examination in investigations only.[152]

The silence of the statute with regard to the application of an alternative comparison method in administrative reviews does not preclude the Department from applying such a practice in this situation. Indeed, the Court of Appeals for the Federal Circuit ("CAFC") stated that the "court must, as we do, defer to Commerce's reasonable construction of its governing statute where Congress leaves a gap in the construction of the statute that the administrative agency is explicitly authorized to fill or implicitly delegates legislative authority, as evidenced by the agency's generally conferred authority and other statutory circumstances."[153] Further, the court stated that this "silence has been interpreted as 'an invitation' for an agency administering unfair trade law to 'perform its duties in the way it believes most suitable' and courts will uphold these decisions '{s}o long as the {agency}'s analysis does not violate any statute and is not otherwise arbitrary and capricious."[154] The Department filled a gap in the statute with a logical, reasonable and deliberative comparison method for administrative reviews.

Comment 8: Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Less-than-Fair-Value Investigations

Stanley's Arguments:

- The CIT held that the 2008 withdrawal of the targeted dumping regulation violated the notice and comment requirements of the Administrative Procedures Act, 5 U.S.C. 500, *et seq.*, ("APA"), and did not fit within any of the exceptions to those requirements.[155]
- The differential pricing methodology contravenes the targeted dumping regulation, 19 CFR 351.414(f) (2008), which the CIT held is still in effect.
- Accordingly, the Department is required to have an allegation of targeted dumping before applying a targeted dumping analysis, rely on appropriate "statistical techniques," and limit the application of the A-to-T method to those sales which are found to have met the criteria to be "targeted dumping."

Petitioner's Arguments:

- The Department properly withdrew the targeted dumping regulations in 2008, and the arguments raised by Stanley have been consistently rejected in other cases.

Department's Position:

The Department disagrees with Stanley that the withdrawal of the targeted dumping regulation violated the APA such that Stanley is entitled to its application. At the outset, the regulations at

[151] *Id*., at 843.
[152] *Id.*
[153] *See United States Steel Corp. v. United States*, 621 F.3d 1351, 1357 (Fed. Cir. 2010).
[154] *See Mid Continent Nail Corp. v. United States*, 712 F. Supp. 2d 1370, 1376-77 (CIT 2010) (citing *U.S. Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996)).
[155] *See Gold East Paper (Jiangsu) Co. v. United States*, 918 F. Supp. 2d 1317, 1327 (CIT 2013) ("*Gold East Paper*"); *see also Mid Continent Nail Corp. v. United States*, 999 F. Supp. 2d 1307 (CIT 2014); *see also Baroque Timber Indus. (Zhongshan) Co. v. United States*, 925 F. Supp. 2d 1332, 1340, n. 10 (CIT 2013) ("*Baroque Timber*").

issue, 19 CFR 351.414(f) (2007), plus 19 CFR 351.414(g) and 19 CFR 351.301(d)(5) (2007), established criteria for making targeted dumping determinations in antidumping duty investigations, not in the context of an administrative review as is the case here.[156] Furthermore, while the CIT held that the issuance of the Department's interim final rule withdrawing the targeted dumping regulations was defective in *Gold East Paper*,[157] the CIT's ruling is not final and conclusive as that matter is still in litigation. As discussed in greater detail below, we disagree with *Gold East Paper*. Also, *Baroque Timber* is completely inapposite because the CIT never had the occasion to consider the merits of those plaintiffs' regulatory withdrawal challenge. Although *Baroque Timber* noted in a footnote that the challenge was "similar" to that made in *Gold East Paper* and that "the Government's defense of the withdrawal does not appear strong,"[158] on remand the Department made several changes to surrogate values, after which the Department "determined that the average-to-average comparison method accounts for any pattern of prices that differ significantly for each company" and applied that method to both respondents in calculating their revised weighted-average dumping margins.[159] The CIT subsequently sustained the Department's findings on this point, noting that no party contested "Commerce's targeted dumping determinations."[160] Because *Baroque Timber* never decided whether the Department properly withdrew its regulation in the first place, this case is inapposite to the question of whether regulations governing targeted dumping were in effect for that review.

Notwithstanding *Gold East Paper*, the Department considers that the targeted dumping regulations were properly withdrawn pursuant to the APA. During the withdrawal process, the Department engaged the public to participate in its rulemaking process. In fact, the Department's withdrawal of its regulations in December 2008 came after two rounds of soliciting public comments on the appropriate targeted dumping analysis. The Department solicited the first round of comments in October 2007, more than one year before it withdrew the regulations by posting a notice in the *Federal Register* seeking public comments on what guidelines, thresholds, and tests it should use in conducting an analysis under section 777A(d)(1)(B) of the Act.[161] As the notice explained, because the Department had received very few targeted dumping allegations under the regulations then in effect, it solicited comments from the public to determine how best to implement the remedy provided under the statute to address masked dumping. The notice posed specific questions, and allowed the public 30 days to submit comments.[162] Various parties submitted comments in response to the Department's request.[163] Notably, none of the respondents in this review commented.

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[156] *See* 19 CFR 351.414(f)-(g) and 19 CFR 351.301(d)(5) (2007); *Withdrawal Notice*, 73 FR at 74930-31.
[157] *See Gold East Paper*, 918 F. Supp. 2d at 1327-28.
[158] *Baroque Timber*, 925 F. Supp. 2d at 1340 n.10.
[159] *See Baroque Timber Industries (Zhongshan) Company, Limited, et al. v. United States*, Consol. Court No. 12-00007, Slip Op. 13-96, Final Results of Redetermination Pursuant to Court Order, at 26-27 (November 14, 2013), available at: http://enforcement.trade.gov/remands/13-96.pdf.
[160] *See Baroque Timber Indus. (Zhongshan) Co. v. United States*, 971 F. Supp. 2d 1333, 1338 n.15 (CIT 2014).
[161] *See Targeted Dumping in Antidumping Investigations; Request for Comment*, 72 FR 60651 (October 25, 2007).
[162] *Id*.
[163] *See Public Comments Received December 10, 2007*, Department of Commerce, http://ia.ita.doc.gov/download/targeted-dumping/comments-20071210/td-cmt-20071210-index.html (December 10, 2007) (listing the entities that commented).

After considering those comments, the Department published a proposed new methodology in May 2008 and again requested public comment.[164] Among other things, the Department specifically sought comments "on what standards, if any, {it} should adopt for accepting an allegation of targeted dumping."[165] Several of the submissions[166] received from parties explained that the Department's proposed methodology was inconsistent with the statute and should not be adopted.[167] Moreover, several entities explicitly stated that the Department should not establish minimum thresholds for accepting allegations of targeted dumping because the statute contains no such requirements.[168] Again, none of the respondents in this review commented.

These comments suggested that the regulations were impeding the development of an effective remedy for masked dumping. Indeed, after considering the parties' comments the Department explained that because "the provisions were promulgated without the benefit of any experience on the issue of targeted dumping, the Department may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping."[169] For this reason, the Department determined that the regulations had to be withdrawn.[170] Although this withdrawal was effective immediately, and the Department did not replace the regulatory provisions with new provisions, the Department again invited parties to submit comments, and gave them an additional 30 days to do so.[171] The comment period ended on January 9, 2009, with several parties submitting comments.[172] As in the first and second comment periods prior to the withdrawal, none of the respondents in this review submitted comments.

The course of the Department's decision-making demonstrates that it sought to actively engage the public. This type of public participation is fully consistent with the APA's notice-and-comment requirement.[173] Moreover, various courts have rejected the idea that an agency must give the parties an opportunity to comment before every step of regulatory development.[174] Rather, where the public is given the opportunity to comment meaningfully consistent with the

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[164] *See Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations*, 73 FR 26371, 26372 (May 9, 2008).
[165] *Id*.
[166] The public comments received June 23, 2008 and submitted on behalf of several domestic parties can be accessed at: http://enforcement.trade.gov/download/targeted-dumping/comments-20080623/td-cmt-20080623-index.html.
[167] *See, e.g.*, Letter from Various Domestic Producers to the Department, titled "Comments on Targeted Dumping Methodology, Comments," dated June 23, 2008, ("Letter from Various Domestic Producers") at 2 (http://enforcement.trade.gov/download/targeted-dumping/comments-20080623/kdw-td-cmt-20080623.pdf).
[168] *See, e.g.*, letter from Committee to Support U.S. Trade Laws, to the Department: "Comments on Targeted Dumping Methodology" at 25; *see also* Letter from Various Domestic Producers at 29.
[169] *See Withdrawal Notice* at 74930-31.
[170] *Id*., at 74931.
[171] *Id.*
[172] *See Public Comments Received January 23, 2009*, Department of Commerce (January 23, 2009), available at: http://enforcement.trade.gov/download/targeted-dumping/comments-20090123/td-cmt-20090123-index.html.
[173] *See, e.g.*, *Arizona Pub. Serv. Co. v. EPA*, 211 F.3d 1280, 1299–1300 (D.C. Cir. 2000) (holding that the EPA's decision to not implement a rule upon which it had sought comments did not violate the APA's notice and comment requirements because the parties should have understood that the agency was in the process of deciding what rule would be proper).
[174] *See Fed. Express Corp. v. Mineta*, 373 F.3d 112, 120 (D.C. Cir. 2004) ("*Mineta*") (holding that the Department of Transportation's promulgation of four rules, each with immediate effect, only after the issuance of which the public was given the opportunity to comment, afforded proper notice and comment).

statute, the APA's requirements are satisfied. The touchstone of any APA analysis is whether the agency has, as a whole, acted in a way that is consistent with the statute's purpose.[175] Here, similar to the agency in *Mineta*, the Department provided the parties more than one opportunity to submit comments before issuing the final rule. As in *Mineta*, the Department also considered the comments submitted and based its final decision, at least in part, upon those comments. Just as the court in *Mineta* found all of those facts to indicate that the agency's actions were consistent with the APA, so too do the Department's actions here demonstrate that it fulfilled the notice and comment requirements of the APA.

The APA does not require that a final rule that the agency promulgates must be identical to the rule that it proposed and upon which it solicited comments.[176] Here, the Department actively engaged the public in its rulemaking process; it solicited comments and considered the submissions it received. In fact, that the numerous comments prompted the Department to withdraw the regulations demonstrates that the Department provided the public with an adequate opportunity to participate. In doing so, the Department fully complied with the APA.

Further, even if the two rounds of comments that the Department solicited before the withdrawal of the regulations were insufficient to satisfy the APA's requirements, the Department properly declined to solicit further comments pursuant to the APA's "good cause" exception. This exception provides that an agency is not required to engage in notice and comment if it determines that doing so would be "impracticable, unnecessary, or contrary to the public interest."[177] The CAFC has recognized that this exception can relieve an agency from issuing notice and soliciting comment where doing so would delay the relief that Congress intended to provide; in *National Customs Brokers*, the CAFC rejected a plaintiff's argument that the U.S. Customs Service failed to follow properly the APA in promulgating certain interim regulations when it had published these regulations without giving the parties a prior opportunity to comment.[178] Moreover, although the U.S. Customs Service solicited comments on the published regulations, it stated that it "would not consider substantive comments until after it implemented the regulations and reviewed the comments in light of experience" administering those regulations.[179] The U.S. Customs Service explained that "good cause" existed to comply with the APA's usual notice and comment requirements because the new requirements did not impose new obligations on parties, and emphasized its belief that the regulations should "become effective as soon as possible" so that the public could benefit from "the relief that Congress intended."[180] The Court recognized that this explanation was a proper invocation of the "good cause" exception and explained that soliciting and considering comments was *both* unnecessary (because Congress had passed a statute that superseded the regulation) "*and* contrary to the public interest because the public would benefit from the amended regulations."[181] For this reason, the Court affirmed the regulation against the plaintiff's challenge.[182]

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[175] *Id*.
[176] *See, e.g., First Am. Discount Corp. v. CFTC*, 222 F.3d 1008, 1015 (D.C. Cir. 2000).
[177] *See* 5 USC 553(b)(B).
[178] *See, e.g., National Customs Brokers and Forwarders Ass'n of Am., Inc. v. United States*, 59 F.3d 1219, 1223 (Fed. Cir. 1995) (*National Customs Brokers*).
[179] *Id*., at 1220–21.
[180] *Id*., at 1223.
[181] *Id*., at 1224 (emphasis added).
[182] *Id*.

In short, the regulation at issue may have had the unintentional effect of preventing the Department from employing an appropriate remedy to unmask dumping. Such effect would have been contrary to congressional intent. The Department's revocation of such regulations without additional notice and comment was based upon a recognized invocation of the "public interest" exception. Accordingly, there was no basis for the Department to base its analysis in the instant proceeding upon the withdrawn regulations.

Comment 9: Application of the Differential Pricing Analysis

Stanley's Arguments:

- The use of the "Cohen's *d*" statistic in the differential pricing analysis conflicts with Congressional intent and is unreasonable for many reasons.
- The Cohen's *d* statistic is a meta-data analysis that was developed for the social sciences, and it is not properly employed in the context of an antidumping analysis.
- It does not measure whether price differences are "significant" within the meaning of the statute.
- It is an estimation tool, not a statistical "test," and the Department has improperly employed it without an accompanying "confidence interval."
- The Cohen's *d* categorization of effect sizes as "small," "medium," and "large" is arbitrary, rendering the Department's reliance on that categorization unreasonable as well.
- By disregarding statistical significance, the Department has ignored the extent to which random events erroneously suggest patterns of significant price differences, thereby violating the Department's obligations to calculate dumping margins as accurately as possible and not to give an unfair advantage to competing domestic industries.
- The Department's application of the Cohen's *d* test is biased toward finding high Cohen's *d* test "pass" rates.
- The Cohen's *d* test does not provide an estimate of the proportion of sales that may "pass" the Cohen's *d* test by chance. The occurrence of finding non-targeted sales to "pass" the Cohen's *d* test randomly is, in statistical terms, a Type I error.
- Second, by counting sales as "targeted" that were not dumped and "passed" Cohen's *d* test because they were made at prices higher than the comparison group mean, the Department contravened Congressional intent that targeted dumping only comprises selling to some customers or regions at dumped prices that are lower than prices to other customers or regions.
- Third, including sales that "pass" Cohen's *d* test in the base groups for other test groups unreasonably causes sales to "pass" Cohen's *d* test that otherwise would not. Finally, the Cohen's *d* test fails to take into account circumstances of sale.
- Neither the "ratio" element nor the "meaningful difference" elements of the differential pricing approach explain why the A-to-A price comparison method cannot account for any perceived pattern of significant price differences.
- The stratification of Cohen's *d* test pass rates in the "ratio" element does not describe a pattern as the statute requires, and the CIT has dismissed the "meaningful difference"

element as failing to explain why the A-to-A method cannot account for perceived price differences[183].

Petitioner's Arguments:

- In the *Preliminary Results*, the Department properly employed its differential pricing analysis. The specific challenges to this analysis presented by Stanley already have been thoroughly considered and rejected by the Department and/or by the C IT.

Department's Position:

The Department disagrees with Stanley that the differential pricing analysis, including the Cohen's *d* test, is unreasonable, unlawful or arbitrary. To the contrary, and as explained in the *Preliminary Results*, the Department continues to develop its approach pursuant to its authority to address potential masked dumping.[184] In carrying out this statutory objective, the Department determines whether "there is a pattern of export prices (or constructed export prices) for comparable merchandise that differs significantly among purchasers, regions, or periods of time, and…. why such differences cannot be taken into account using {the A-to-A or T-to-T comparison method}."[185] With the statutory language in mind, the Department relied on the differential pricing analysis to determine whether these criteria are satisfied such that application of an alternative methodology may be appropriate.[186]

Stanley presents several arguments regarding the Department's differential pricing analysis in the *Preliminary Results*. Stanley's arguments are premised on the idea that the Department's reliance on the differential pricing analysis, including the Cohen's *d* test, does not satisfy the statutory intent. There is nothing, however, in the statute that mandates *how* the Department measure whether there is a pattern of prices that differs significantly. To the contrary, the statute is silent. As explained in the *Preliminary Results* and below, the Department's differential pricing analysis is reasonable and consistent with the congressional intent, including the use of Cohen's *d* test as a component in this analysis.

Stanley argues that the Cohen's *d* test was created for application in the behavioral sciences, for measuring the size of the effect of an intervention, and thus is completely disconnected from the problem of identifying targeted sales.[187] The Department finds Stanley's concerns misplaced. In examining whether there exists a pattern of prices that differ significantly, the Department is analyzing a respondent's pricing behavior in the U.S. market. This behavior may be influenced by economic forces, government statutes and policies, company priorities or management idiosyncrasies. This is not a "hard" science such as physics or chemistry which is governed by the laws of nature. Rather, pricing behavior is a sub-component of economics, which falls within the purview of the behavioral sciences.[188] Therefore, the Department continues to find that the inclusion of the Cohen's *d* test in its analysis is appropriate.

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[183] *See Beijing Tianhai Indus. Co. Ltd v. United States*,7 F. Supp. 3d 1318 (CIT 2014).
[184] *See Preliminary Results*, and accompanying Decision Memo at 15-18.
[185] *See* section 777A(d)(1)(B) of the Act (emphasis added).
[186] *See* 19 CFR 351.414(c)(1).
[187] *See* Stanley's Case Brief at 15-17.
[188] According to the textbook *The Bounds of Reason: Game Theory and the Unification of the Behavioral Sciences*, "The behavioral sciences include economics…." Herbert Gintis, Ch. 12 The Unification of the Behavioral Sciences, p. 225, Princeton University Press, Apr. 5, 2009.

Stanley further contends that the Cohen's *d* coefficient was created to measure intangible units of measurement. Stanley quotes Jacob Cohen, the creator of the Cohen's *d* coefficient, explaining that the Cohen's *d* coefficient can be used to measure units that may not be understood easily. In this quote, Mr. Cohen confirmed that the Cohen's *d* test can be used to measure intangible units. However, he never said that it cannot be used in an analysis involving tangible units.

Likewise, Stanley's injection of additional meaning into the word "significantly" is also unsupported by either the statute or the SAA. As discussed further below, Stanley conflates the term "significantly" with "statistically significant" as well as the purposes between a measure of effect size, such as the Cohen's *d* coefficient, and a measure of statistical significance. No such requirement exists. Rather, as in the Cohen's *d* test used by the Department for Stanley, the Department has ensured that each of the differences in prices, as reported by Stanley, have significance to the extent provided by the widely accepted applications of the Cohen's *d* coefficient.

According to Stanley, it is insufficient for the Department to determine that a "significant difference" exists, despite the fact that this is the precise statutory language. Stanley claims that the difference must also be shown to have "statistical significance" rather than simply being "large" before the Department may consider use of the alternative methodology. Stanley claims that the Department must employ the t-test to determine statistical significance in order for the Department's analysis to be lawful. Stanley's claim has no basis in the statutory language, which only requires a finding of a pattern of prices that differ "significantly." The statute does not require that the difference be "statistically" significant, only that it be significant.

Stanley provides a definition of "significant" from *Webster's New World Dictionary of the American Language*, Simon & Schuster, New York (1908) at 1325. The definition is as follows:

> That is: 1. a) having or expressing a meaning, b) full of meaning; 2. Important; momentous; 3. Having or or conveying a special or hidden meaning; suggestive; 4. Or of pertaining to an observed departure from a hypothesis too large to be reasonably attributed to chance.

Stanley's proffered definition supports the Department's understanding that it is tasked by the statute to find a *meaningful* difference between the average price of a test group and the average price of a comparison group; the Cohen's *d* test does just this.

The Department disagrees with Stanley's argument that "statistical significance" is equivalent with "significance." Stanley, as stated above, conflates and sows confusion with regards to the meaning of these two terms just as with the meaning behind effect size and statistical significance while stirring in references to a "reliable sample" and sample size. In statistics, there are a number of statistical measures which can be used to quantify a given set of data. Examples of such statistical measures are the mean and variance of a population. When statistical measures, such as the mean and variance, cannot be calculated for a population, then these values can be estimated by the selection of a random sample of data from that population. These estimations are not the same as the actual values if they could be measured from the

population. Consequently, each of these estimations has an associated "statistical significance" which quantifies the reliability of the estimation *(i.e.*, how close is the estimation, within a specified confidence interval, of the actual value?). One can then select another random sample (or multiple random samples) to calculate other estimation(s) of the statistical measures. These estimations (*e.g.*, of the mean) will each be different than each of the other estimation(s) and will each have an associated statistical significance as to the difference between each estimation and the actual value of the statistical measure (*e.g.*, the mean) of the population. Further, each of these estimations will vary randomly since they are based on a random sample of data from the population. This randomness is exemplary of the "noise" or sampling error that is inherent when an actual statistical measure of a population is estimated based on data in a random sample from that population.

In order to determine the "significance" of the difference in the pattern of prices among purchasers, regions or time periods, the Department has relied upon a concept called the "effect size," and in particular a specific approach developed by Jacob Cohen called the "*d*" statistic or, as the Department has labeled it, the "Cohen's *d* coefficient." This "significance" denotes whether this difference is significant and has meaning, and it is distinct from the concept of "statistical significance" discussed above in relationship to the estimation of the actual values of statistical measures of a given population of data. In the final determination of *Xanthan Gum from the PRC*, the Department described "effect size" in response to a comment from Deosen, an examined respondent in that investigation:

> Nothing in Deosen's submitted articles undermines the Department's reliance on the Cohen's *d* test. Deosen's reliance on the article "It's the Effect Size, Stupid" does not undermine the validity of the Cohen's *d* test or the Department's reliance on it to satisfy the statutory language. Interestingly, the first sentence in the abstract of the article states: Effect size is a simple way of quantifying the difference between two groups *and has many advantages over the use of tests of statistical significance alone*. Effect size is the measurement that is derived from the Cohen's *d* test. Although Deosen argues that effect size is a statistic that is "widely used in meta-analysis," we note that the article also states that "{e}ffect size quantifies the size of the difference between two groups, and may therefore be said to be a *true measure of the significance of the difference*." The article points out the precise purpose for which the Department relies on Cohen's *d* test to satisfy the statutory language, to measure whether a difference is significant.[189]

To the extent that Stanley argues that "significance" is often meant to imply "statistical significance," we note if Congress had intended to require a particular result be obtained to ensure the "statistical significance" of price differences that mask dumping as a condition for applying an alternative comparison method, Congress presumably would have used language more precise than "differ significantly." The Department, tasked with implementing the

[189] *See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) ("*Xanthan Gum from the PRC*") and the accompanying Issues and Decision Memorandum at Comment 3(emphasis in the original, internal citations omitted); quoting from Coe, "It's the Effect Size, Stupid: What effect size is and why it is important," Paper presented at the Annual Conference of British Educational Research Association (Sept. 2002), http://www.leeds.ac.uk/educol/documents/00002182.htm.

antidumping law, resolving statutory ambiguities, and filling gaps in the statute, does not agree with Stanley's that the term "significantly" in the statute can mean only "statistically significant." The law includes no such directive. The analysis employed by the Department, including the use of the Cohen's *d* test, fills the statutory gap as to how to determine whether a pattern of prices "differ significantly." Further, the use of other statistical measures is to determine from a sample *(i.e.*, the data at hand) of a larger population an estimate of what the actual values (*e.g.*, the mean or variance) of the larger population may be with a "statistical significance" attached to that estimate. However, the Department's use of the Cohen's *d* test is based on the entire population of U.S. sales by the respondent, and, therefore, there are no estimates involved in the results and accordingly "statistical significance" is not a relevant consideration.

Furthermore, in examining the requirement provided in section 777A(d)(1)(B)(i) of the Act, the Department has relied upon "effect size," and specifically the Cohen's *d* coefficient, to evaluate whether the difference in the pattern of prices for comparable merchandise among purchasers, regions or time periods is significant. However, unlike in the description above, the data upon which the statistical measure of effect size is based are not random samples but rather the entire population of data (*i.e.*, the U.S. sales to each purchaser, region and time period). Stanley has reported all of its sales of subject merchandise in the U.S. market during the period of review, and it is this data upon which the Department is basing its analysis consistent with the requirements of section 777A(d)(1)(B), just as it has when calculating Stanley's weighted-average dumping margin. Accordingly, the Department's calculation of the Cohen's *d* coefficient includes no noise or sampling error as the underlying means and variances used to calculate the Cohen's *d* coefficient are not estimates but the actual values based on the complete U.S. sales data as reported by Stanley in this review. Therefore, Stanley's insistence that the Department must first consider the statistical significance of its analysis is misplaced and would be inappropriate.

Several of Stanley's arguments embody a fundamental misinterpretation of the statute and the term significant. For example, Stanley raises concerns with regard to accounting for random events and Type I error, and also expresses concerns about whether the Cohen's *d* test tests a statistical hypothesis, which is necessary when measuring statistical significance. As stated above, there are no random estimates of actual statistical measures because Commerce's analysis relies on complete information to perform such calculations. Because Commerce has the complete population of Stanley's United States sales, none of the resulting calculations evince random errors because of sampling. Moreover, because there is no sampling or randomness, all issues related to Type I error (*i.e.*, errors that occur because of sampling) are moot. And finally, because Commerce is not required to measure statistical significance, all of Stanley's discussion of statistical hypothesis testing is irrelevant.

The Department disagrees with Stanley's claim that the Cohen's *d* test's thresholds of "small," "medium," and "large" are arbitrary.[190] Although these thresholds have qualitative labels, as described in the Preliminary Decision Memorandum, the Department stated that of these three thresholds, "the large threshold provides the strongest indication that there is a significant

[190] *See* Stanley's Case Brief at 24-26.

difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists."[191] In other words, the significance required by the Department in its Cohen's *d* test affords the greatest meaning to the difference of the means of the prices among purchasers, regions and time periods. Furthermore, as originally stated in *Xanthan Gum from the PRC*:

> In "Difference Between Two Means," the author states that "there is no objective answer" to the question of what constitutes a large effect. Although Deosen focuses on this excerpt for the proposition that the "guidelines are somewhat arbitrary," the author also notes that the guidelines suggested by Cohen as to what constitutes a small effect size, medium effect size, and large effect size "have been widely adopted." The author further explains that Cohen's d is a "commonly used measure{}" to "consider the difference between means in standardized units."[192]

The Department therefore chose these thresholds because they are generally accepted thresholds for the Cohen's *d* test. Despite Stanley's contention, the Department finds the Cohen's *d* test is a reasonable tool for use as part of an analysis to determine whether a pattern of prices differ significantly.[193]

Stanley states that an "effect size index is important where the scale of a dependent variable is not inherently meaningful" and in such circumstances, it is useful to consider the difference in the means of the studies' results in standardized units. The Department agrees as this is what the Department's application of the Cohen's *d* test provides. U.S. prices are measured in U.S. dollars per a stated unit of quantity. The difference in two prices, such as the difference in the mean prices for two groups (*e.g.*, ten dollars), has no inherent meaning unless it is relevant to a given benchmark. For example, a ten dollar difference in the price of two cars is substantially different than a ten dollar difference in the price of a hamburger. In absolute terms, these two values are identical. However, if each of these differences in prices is examined in relation to the value of the underlying goods, then one can understand that a ten dollar difference in the price of two hamburgers is substantial whereas a ten dollar difference in the price of two cars is not substantial.

Stanley argues that the Cohen's *d* test contravenes congressional intent as expressed in the SAA. We disagree. The SAA expressly recognizes that the statute "provides for a comparison of average normal values to individual export prices or constructed export prices in situations where an A-to-A or transaction-to-transaction (T-to-T) methodology cannot account for a pattern of prices that differ significantly among purchasers, regions, or time periods, *i.e.*, where targeted dumping may be occurring."[194] As the SAA implies, the Department is not tasked with determining whether targeted dumping is, in fact, occurring. Rather, the SAA recognizes that

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[191] *See* Preliminary Decision Memorandum at 16-17.
[192] *See Xanthan Gum from the PRC* and the accompanying Issues and Decision Memorandum at Comment 3 (internal citations omitted); quoting from David Lane, *et al.*, Chapter 19 "Effect Size," Section 2 "Difference Between Two Means."
[193] *Id*.
[194] *See* SAA at 843.

targeted dumping may be occurring where there is a pattern of prices that differ significantly among purchasers, regions, or time periods. In our view, the purpose of section 777A(d)(1)(B) of the Act is to evaluate whether the A-to-A method or the T-to-T method is the appropriate tool to measure whether, and if so to what extent, a given respondent is dumping the merchandise at issue.[195] While targeting may be occurring with respect to such sales, it is not a requirement nor a precondition for the Department to otherwise determine that the A-to-T method is warranted, based upon a finding of a pattern of prices that differ significantly as provided in the statute.

For the Cohen's *d* coefficient, this examination of the price differences between test and comparison groups is relative to "pooled standard deviation." The pooled standard deviation reflects the dispersion, or variance, of prices within each of the two groups. When the variance of prices is small within these two groups, then a small difference between the weighted-average sale prices of the two groups may represent a significant difference, but when the variance within the two groups is larger (*i.e.*, the dispersion of prices within one or both of the groups is greater), then the difference between the weighted-average sale prices of the two groups must be larger in order for the difference to perhaps be significant. When the difference in the weighted-average sale prices between the two groups is measured relative to the pooled standard deviation, then this value is expressed in standardized units based on the dispersion of the prices within each group. This is the concept of an effect size, as represented in the Cohen's *d* coefficient.

The Department disagrees with Stanley that we did not provide an explanation of why the A-to-A methodology cannot account for pricing differences. As explained in the *Preliminary Results*, if the difference in the weighted-average dumping margins calculated using the A-to-A method and an appropriate alternative comparison method is meaningful, then this demonstrates that the A-to-A method cannot account for such differences and, therefore, an alternative method would be appropriate.[196] The Department determined that a difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method when both margins are above *de minimis*; or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.[197] Here, such a meaningful difference exists for Stanley because when comparing Stanley's weight-averaged dumping margin calculated pursuant to the A-to-A method and an alternative comparison method based on applying the A-to-T method only to those U.S. sales that passed the Cohen's *d* test, Stanley's weighted-average dumping margin moves across the *de minimis* threshold. This threshold is reasonable because comparing the weighted-average dumping margins calculated using the two comparison methods allows the Department to quantify the extent to which the A-to-A method cannot take into account different pricing behaviors exhibited by the exporter in the U.S. market. Therefore, for these final results, the Department finds that the A-to-A method cannot take into account the observed differences.

Stanley further comments that the use of net prices rather than gross prices distorts the Department's analysis. Thus, Stanley states, differences in prices may be found to exist simply because of differences in the circumstances of the sales. The Department finds Stanley's

[195] *See* 19 CFR 351.414(c)(1).
[196] *See* Preliminary Decision Memorandum at "Determination of Comparison Method."
[197] *Id*.

argument to be misplaced. As discussed above, the purpose of the Department's analysis is to determine whether the A-to-A method is appropriate to measure the amount of dumping for a respondent. To calculate a weighted-average dumping margin, and the underlying A-to-A comparisons, the Department uses net U.S. prices, either based on export prices or constructed export prices. The Department does not calculate dumping margins based solely on gross prices. Accordingly, the Department finds that it is appropriate and reasonable that its examination of a pattern of prices that differ significantly to be based on net prices rather than gross prices, as net prices are the basis used to calculate dumping margins and determine a respondent's amount of dumping.

The Department notes that the last two arguments by Stanley appear to be at odds with each other. In the first, Stanley is concerned with homogeneous pricing to a particular customer, whereas in the second, Stanley contends that the Department should be using the gross U.S. price rather than the net U.S. price in its analysis. If the Department used the gross U.S. price as seemingly preferred by Stanley, then one would expect that prices would be even more homogeneous, as all the various adjustments between gross and net prices, which can vary sale by sale, would not be accounted for in the analysis. This would compound Stanley's first concern. However, use of net U.S. prices, against which Stanley argues, would increase the variability of the sale prices within a group and thus require a larger difference in the weighted-average sale prices between the two groups, and thus alleviate Stanley's first concern.

Stanley alleges that the Department's use of the Cohen's *d* test is biased toward finding prices that differ significantly, leading Commerce to overuse the average-to-transaction method. Stanley conflates passing the Cohen's *d* test, the application of the average-to-transaction comparison methodology (*i.e.*, finding that a pattern of prices that differ significantly exists and that the average-to-average methodology cannot account for such differences), and a finding of dumping (*i.e.*, finding that a respondent is selling subject merchandise at below normal value). But each of these requires a separate analysis with distinct results that should not be confused with one another. Moreover, Stanley's citations to Commerce's determinations wherein we found that respondents' sales passed the Cohen's *d* test illustrate nothing other than that the respondents' pricing behavior exhibited certain significant differences in prices.[198] Stanley does not discuss whether we applied an alternative comparison methodology, and therefore its argument, including citations to these determinations does not demonstrate anything meaningful. Both requirements under section 1677f-1(d)(1)(B) of the Act must be satisfied before applying an alternative comparison methodology and Stanley's analysis is concerned with and limited to only the first of the two requirements. These instances cited by Stanley do not show whether the Department applied an alternative comparison methodology or even whether the Department found that the respondent sold subject merchandise at less than normal value.

Stanley also fails to appreciate the difference between sales which have been found to be at significantly different prices (*i.e.*, "targeted") as opposed to whether the Department has applied an alternative comparison methodology to address "targeted" or masked dumping. In its case brief, Stanley connects high rates of sales passing the Cohen's *d* test to dumping. However, a high passing rate does not mean that the average-to-average methodology cannot account for such differences (*i.e.*, dumping is being masked). As explained above, both requirements of

[198] *See* Stanley's Case Brief at 33-34 and Addendum A.

section 1677f-1(d)(1)(B) of the Act must be satisfied before the Department has the option of applying an alternative comparison method in less-than-fair-value investigations. Thus, even if a large proportion of a company's United States sales pass the Cohen's *d* test, the Department does not automatically apply the average-to-transaction methodology. The Department must also consider whether the average-to-average method can account for such differences, and if the standard comparison methodology can account for such differences, then the Department cannot apply an alternative methodology because both of the statutory requirements have not been met. In other words, a finding that there exists a pattern of prices that differ significantly means only that the Department will consider whether the standard comparison methodology can account for such differences. A company may sell subject merchandise in the United States market at significantly different prices yet none of these sales are priced at less than normal value (*i.e.*, there is no dumping); in such a situation, the average-to-average method will be able to account for such differences and the average-to-average method will be used to calculate the weighted-average dumping margin. Likewise, a company can also make these same United States sales at significantly different prices among purchasers, regions, or time periods at prices which are all less than normal value (*i.e.*, all sales are dumped); in such a situation, the average-to-average method also will be able to account for such differences and thus, the average-to-average method will, again, be used. Thus, even if there is a high Cohen's *d* pass rate, this result is meaningless without consideration of whether the average-to-average method can account for such differences.

Stanley appears to agree with the Department that "the statute is silent as to whether only high priced sales or low priced sales are to be considered in the analysis."[199] Indeed, the statute does not require that the Department consider only lower priced sales when evaluating whether there exists a pattern of prices that differ significantly. The Department has the discretion to consider sales information on the record in its analysis and to draw reasonable inferences as to what that data show. Contrary to Stanley's claim, it is reasonable for the Department to consider both lower priced and higher priced sales in the Cohen's *d* analysis because higher priced sales are equally capable as lower priced sales to create a pattern of prices that differ significantly. Further, higher priced sales will offset lower priced sales, either implicitly through the calculation of a weighted-average sale price for a U.S. averaging group, or explicitly through the granting of offsets when aggregating the A-to-A comparison results, that can mask dumping. The statute states that the Department may apply the A-to-T comparison method if "there is a *pattern of export prices* . . . for comparable merchandise that *differ* significantly among purchasers, regions, or periods of time," and the Department "explains why *such differences* cannot be taken into account" using the A-to-A comparison method.[200] The statute directs the Department to consider whether a pattern of prices differ significantly. The statutory language references prices that "differ" and does not specify whether the prices differ by being priced lower or higher than the comparison sales. The statute does not provide that the Department considers only higher priced sales or only lower priced sales when conducting its analysis, nor does the statute specify whether the difference must be the result of certain sales being priced higher or lower than other sales. The Department explained that higher priced sales and lower

[199] *Id.*, at 37.
[200] *See* section 777A(d)(1)(B) of the Act (emphasis added).

priced sales do not operate independently; all sales are relevant to the analysis.[201] By considering all sales, higher priced sales and lower priced sales, the Department is able to analyze an exporter's pricing practice and to identify whether there is a pattern of prices that differ significantly. Moreover, finding such a pattern of prices that differ significantly among purchasers, regions, or periods of time, signals that the exporter has a varying pricing behavior between purchasers, regions, or periods of time within the U.S. market rather than following a more uniform pricing behavior. Where the evidence indicates that the exporter is engaged in such a pricing behavior, there is cause to continue with the analysis to determine whether the A-to-A method or the T-to-T method can account for such pricing behavior and is the appropriate tool to evaluate the exporter's amount of dumping. Accordingly, both higher- and lower- priced sales are relevant to the Department's analysis of the exporter's pricing behavior.

Also contrary to Stanley's claim, the statute does not require that the Department consider whether sales have been dumped to be considered part of a pattern of prices that differ significantly. The statute provides no such consideration of NVs in section 777A(d)(1)(B)(i) of the Act, only "export prices (or constructed export prices)." Furthermore, while higher or lower priced sales could be dumped or could be providing offsets for other dumped sales, this is immaterial in the Department's analysis, including the use of the Cohen's *d* test in this administrative review, and in answering the question of whether there is a pattern of export prices that differ significantly. This analysis includes no comparisons with NVs and section 777A(d)(1)(B)(i) of the Act contemplates no such comparisons.

Stanley's argument that sales must be both targeted and dumped in order to find that there exists a pattern of prices that differ significantly appears to derive from Stanley's equating the language in the SAA with the requirements of section 777A(d)(1)(B) of the Act. Such a requirement is inappropriate. Congress provided in the statute the option of an alternative comparison method in less-than-fair-value investigations when the two stipulated requirements have been satisfied, and as explained in Comment 5 *supra*, the Department also applies this practice in administrative reviews. To reduce section 777A(d)(1)(B), however, to a concern over targeting, rather than the statutory requirement of whether there exists a pattern of prices that differ significantly, is to misconstrue the statute and to insert requirements which do not exist therein.

Further, Stanley argues that "targeting" higher priced sales makes no commercial sense and, therefore, should not be considered as a part of a pattern of prices that differ significantly. As discussed above, the Department disagrees with the notion that the term "targeted dumping" in the SAA, as interpreted by Stanley, establishes the requirements set forth in section 777A(d)(1)(B)(i) of the Act. Additionally, the Department disagrees with Stanley's assumption that in the Department's dumping analysis in general, and in addressing the criteria under section 777A(d)(1)(B) of the Act in particular, that the intent of the respondent is relevant. The fact that a respondent's pricing behavior may be motivated by the priority to maximize returns for the owners, promote market penetration, provide for the indigent in the respondent's surrounding region, or commit "commercial suicide"[202] is immaterial to the Department. The statute does not

[201] *See Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) ("*Plywood*") and accompanying Issues and Decision Memorandum at Comment 5.
[202] *See* Stanley's Case Brief at 39.

include a requirement that the Department must account for some kind of causality for any observed pattern of prices that differ significantly. Congress did not speak to the intent of the producers or exporters in setting export prices that exhibit a pattern of significant price differences. Nor is an intent-based analysis consistent with the purpose of the provision, as noted above, which is to determine whether the A-to-A method is a meaningful tool to measure whether, and if so, to what extent, dumping is occurring. Consistent with the statute and the SAA, the Department determined whether a pattern of prices that differ significantly exists. Neither the statute nor the SAA requires that the Department conduct an additional analysis to account for potential reasons for the observed pattern of prices that differ significantly.

The Department disagrees with Stanley's claim that the thresholds provided for in its differential pricing analysis regarding the results of the ratio test and the identification of an appropriate alternative comparison method, if any, are unlawful. Neither the statute nor the SAA provide any guidance in determining how to apply the A-to-T method once the requirements of section 777A(d)(1)(B)(i) and (ii) have been satisfied. Accordingly, the Department has reasonably created a framework to determine how the A-to-T method may be considered as an alternative to the standard A-to-A method based on the extent of the pattern of prices that differ significantly as identified with the Cohen's *d* test. As stated in the *Preliminary Results*, the purpose of the Cohen's *d* test is "to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise."[203] When 66 percent of more of the value of a respondent's U.S. sales are found to establish a pattern of prices that differ significantly, then the Department finds that the extent of these price differences throughout the pricing behavior of the respondent does not permit the segregation of this pricing behavior which constitute the identified pattern or prices that differ significantly from that which does not. Accordingly, the Department determines that considering the application of the A-to-T method to all U.S. sales to be reasonable. Further, when 33 percent or less of the value of a respondent's U.S. sales constitute the identified pattern of prices that differ significantly, then the Department considers this extent of the pattern to not be significant in considering whether the A-A method is appropriate, and has not considered the application of the A-to-T method as an alternative comparison method. When between 33 percent and 66 percent of the value of a respondent's U.S. sales constitute a pattern of prices that differ significantly, the Department considers the extent of this pattern to be meaningful to consider whether the A-to-A method is appropriate, but also finds that segregating this pricing behavior from the pricing behavior which does not contribute to the pattern to be reasonable, and has then only considered the application of the A-to-T method as an alternative comparison method to this limited portion of a respondent's U.S. sales. Lastly, as stated in the *Preliminary Results*, the Department invited interested parties to submit arguments and support with respect to the differential pricing analysis used in this administrative review with respect to modifying the default definitions used in the Department's approach.[204] Stanley has provided no such comments to alter the 33 percent and 66 percent thresholds, or any of the other thresholds or definitions, used by the Department in the *Preliminary Results*.

Stanley takes exception with the fact that the Department states that it will continue to develop its approach, yet contends in all of the proceedings in which the Department uses its differential

[203] *See* Preliminary Decision Memorandum at 16.
[204] *Id.*, at 17.

pricing analysis, it applies it in a rigid, mechanical manner. The Department disagrees. First, on an overarching basis, the Department continues to expand its experience in the consideration of an alternative comparison method and how to address the criteria in section 777A(d)(1)(B) of the Act. This is reflected in how the Department's practice evolved over the last 20 years since the implementation of the URAA. On a case-by-case basis, the Department also considers the factual information and arguments on the record for each segment of a proceeding and evaluates whether the approach taken to address the criteria in section 777A(d)(1)(B) should be altered. In particular, for the differential pricing analysis applied in this review, the Department stated:

> Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.[205]

No parties submitted information or argument in the instant review that the Department should alter any aspect of its analysis, including the definitions of the defaults groups as first defined in *Xanthan Gum from the PRC*.[206] Therefore, the Department considered no such changes.

Stanley also challenges Commerce's continued use of sales that have been found to pass the test (*i.e.*, have a coefficient of 0.8 or above) in the base group of other comparisons. As stated in the *Preliminary Results*, the purpose of the Cohen's *d* test is "to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise."[207] Simply because certain sale prices are part of a test group in one instance and part of a comparison group in other instances does not constitute double counting. The Department's dumping analysis includes all information and data on the record of this administrative review, and the Department finds that selectively including or excluding certain sales is not supported by the statute.

The Department disagrees with Stanley's claims that the differential pricing analysis used in the *Preliminary Results* is not reasonable or that "including sales that 'pass' the Cohen's *d* test in base groups for other test groups unreasonably causes sales to 'pass' that otherwise would not." Stanley asserts that this is the result of the fact that the Department includes all U.S. sales in its analysis. To illustrate our position, consider a hypothetical situation similar to that provided by Stanley: there are two purchasers, A and B, which purchase the subject merchandise at average prices of 10 and 20, respectively. Based on the Cohen's *d* test, when testing purchaser A, the weighted-average price to purchaser B will be the comparison group, and the difference in the two prices between purchaser A and purchaser B, *i.e.*, 10, is found to pass the Cohen's *d* test. Then, when purchaser B is the test group, purchaser A will be the comparison group, and the sales to purchaser B will also be found to pass the Cohen's *d* test. The Department finds that this is a reasonable outcome for a simple scenario. If the weighted-average price to purchaser A differs significantly from the weighted-average price to purchaser B, then the weighted-average

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[205] *See Preliminary Results* and accompanying Preliminary Decision Memorandum at 16.
[206] *See also Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) and the accompanying Decision Memorandum at 5, where the Department first applied a differential pricing analysis in an administrative review; unchanged in *Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 38938 (June 28, 2013).
[207] *See* Preliminary Decision Memorandum at 16.

price to purchaser B also differs significantly from the weighted-average price to purchaser A. Stanley's suggestion, that once the Department finds that the weighted-average price to purchaser A differs significantly from the weighted-average price to purchaser B, then the sales prices to purchaser A should be excluded henceforth from the analysis, is illogical. This would result in no comparison being made for the weighted-average price to purchaser B. Further, if purchaser B's sales were tested first, then purchaser A's sales would not be tested. Such an approach would lead to arbitrary and unpredictable results that would depend upon the order in which purchasers, regions or time periods were examined.

Company-Specific Issues

Comment 10: Hebei Cangzhou New Century Foreign Trade Co., Ltd.'s (New Century) Status as a No-Shipments Company

Petitioner's Arguments:

- The Department should apply adverse facts available ("AFA") to treat New Century as part of the PRC-wide entity because it did not respond to evidence contrary to its claim of no shipments.

No other parties commented on this issue.

Department's Position:

We agree with Petitioner, in part. Although New Century reported it had no shipments during the POR, we received a response from CBP contrary to this claim.[208] In the *Preliminary Results*, because we had not yet examined this issue in further detail, we preliminary considered New Century as a no-shipments company, but stated that we would scrutinize the issue further. Subsequent to the *Preliminary Results*, on January 26, 2015, we issued a supplemental questionnaire to New Century, asking it to address evidence that it in fact had shipments of subject merchandise during the POR.[209] We received no response, despite also notifying New Century's counsel by e-mail, and also by sending a hard copy of the questionnaire to both its counsel and New Century directly.[210] Because New Century did not respond to our supplemental questionnaire to address evidence contrary to its no shipments claim (*i.e.*, that it in fact shipped subject merchandise to the United States during the POR), the uncontroverted evidence is that this company had shipments during the POR and, thus, this company is properly under review. Furthermore, New Century did not submit a separate rate application or certification to demonstrate that it was eligible to receive a separate rate. Thus, consistent with our practice in NME proceedings,[211] we are treating it as part of the PRC-wide entity for the final results of this review. In this regard, we note that our determination with respect to New Century is not the result of AFA.

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[208] *See* The Department's January 26, 2015, no shipments supplemental questionnaire at Attachment 1.
[209] *Id.*
[210] *See* the Memorandum to the File from Matthew Renkey, Senior Analyst, "Documentation of Non-Response to No Shipments Supplemental Questionnaire," dated March 30, 2015, showing confirmation of delivery.
[211] *See Preliminary Results* and accompanying Preliminary Results Memorandum at 4 (explaining that companies must demonstrate that they are independent from government control or they are subject to the NME entity's rate).

Comment 11: Correction of a Clerical Error in Not Listing Tianjin Lianda as a Separate Rate Company

Tianjin Lianda's Arguments:

- Tianjin Lianda timely submitted a separate rate certification, but the Department erroneously did not include it among those companies eligible for a separate rate and instead listed it as a company included within the PRC-wide entity.

No other parties commented on this issue.

Department's Position:
We agree with Tianjin Lianda and for the final results have included it among those companies receiving a separate rate, as it timely submitted a separate rate certification during the course of this administrative review. [212]

Comment 12: SV for Stanley's Plastic Beads

Stanley's Arguments:

- The Department should not use HTS 3921.90.90 as this is for plates, sheets, film, foil, and strip.[213]
- The propylene plastic granules consumed by Stanley are not a finished product but bulk material that is heated and extruded to collate nails.[214]
- As determined in the fourth administrative review, Stanley's plastic granules should be valued using HTS 3921.10.90.[215]

Petitioner's Arguments:

- Continue using HTS 3921.90.90, and do not use HTS 3902.10.90 because the beads do not change in chemical content. Although "beads" are not plates, film, foil, or strips, they are of a regular geometric shape.[216]

Department's Position:
For the *Preliminary Results*, the Department valued Stanley's plastic beads using the GTA data classified under the subheading for 3921.90.90. The 3921.90 HTS category covers "Plates, Sheets, Film, Foil and Strip Of Plastics, Nesoi, Non-Cellular Plastic Nesoi." Consistent with the fourth administrative review, we find that HTS categories under 3921 only apply to plates, sheets film, foil, strips, and to blocks of regular geometric shapes whether, cut or uncut.[217] In addition, HTS 3902.10.90 is for polymers of polypropylene in "primary form" (*i.e.*, blocks of irregular shape, lumps, powders, granules, flakes, and similar bulk forms.[218] We find that Stanley's

[212] *See* Tianjin Lianda's separate rate certification submitted on December 13, 2013.
[213] *See* Stanley Case Brief at 42.
[214] *Id.*
[215] *Id.*, at 42-43.
[216] *See* Petitioner Rebuttal at 32.
[217] *See Certain Steel Nails from the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review*, 79 FR 19316 (April 8, 2014) ("*Nails AR4 Final*") and accompanying Issues and Decision Memorandum at Comment 11.
[218] *Id.*

plastic beads more closely match the description under HTS 3902.10.90 as: 1) this HTS is more specific because it relates to polypropylene and not just "plastic;" 2) there is no indication that Stanly's plastic beads were purchased in a form other than bulk; and, 3) there is no indication that Stanley's plastic beads lend themselves to be cut into regular shapes, as HTS categories under 3921 imply. Thus, for the final results, we will use HTS 3902.10.90 to value Stanley's plastic beads.[219]

Comment 13: SV for Stanley's Chromate, Chromium Trioxide

Stanley's Arguments:

- Do not use HTS 2819.10.00.20 as this is for chromic acid.[220]
- Use HTS 2819.10 as this is the appropriate subheading for the chromium trioxide (*i.e.*, chromate) consumed by Stanley's tolling subcontractor.[221]

Petitioner's Arguments:

- Continue using HTS 2819.10.00.201 because nothing on the record demonstrates the chemical formula of any of the Thai 11-digit sub-classifications under 2819.10.[222]

Department's Position:

For the *Preliminary Results*, the Department valued Stanley's chromate, chromium trioxide using GTA data classified under 2819.10.00.201, "Chromic Acid Not Exceeding 15% W/W." We agree with Petitioner that Stanley did not provide any additional specifications with respect to the chromium trioxide consumed by its toller. Further, we agree with Petitioner that there is no information on the record that chromium acid is different from chromium trioxide. As 2819.10.00.201 is the only data available on the record for chromate, chromium trioxide, we find that this best available information on the record for this input. Accordingly, we will continue to use HTS 2819.10.00.201 for the final results.

Comment 14: SV for Stanley's Thermal Transfer Ribbon

Stanley's Arguments:

- Do not use HTS 3921.90.10.001 because it does not have physical characteristics used for printing labels through a thermal transfer process.[223]
- Use HTS 3702.39.00 as the U.S. Customs and Border Protection ("CBP") has classified "photographic film in rolls … of any material other than paper, paperboard or textiles under HTS 3702.[224]

Petitioner's Arguments:

- Continue using HTS 3921.90.10.001 because Petitioner placed the import data and AUV for this HTS as a potential basis to value the thermal transfer ribbon Stanley consumed during

[219] *See* Final SV Memo.
[220] *See* Stanley Case Brief at 44.
[221] *Id.*
[222] *See* Petitioner Rebuttal at 33.
[223] *See* Stanley Case Brief at 44-45.
[224] *Id.*, at 45.

the packing process.[225]

- Although the CBP previously ruled some type of thermal transfer ribbon is best classified under 3702, there is no evidence demonstrating that Stanley's input is the same as that addressed by CBP in that ruling.[226]

Department's Position:

For the *Preliminary Results*, the Department valued Stanley's transfer ribbon using GTA data classified under HTS 3921.90.10.001, "Plates, Sheets, Film, Foil And Strip Of Plastics, Nesoi, Non-Cellular Plastics Nesoi, Other." We agree with Petitioner that there is no evidence on the record demonstrating that Stanley's input is the same merchandise that was addressed in the CBP ruling referenced by Stanley. Further, we also agree that the burden of creating an adequate record lies with respondents.[227] As 3921.90.10.001 is the only data available on the record for thermal transfer ribbon, we find that this best available information on the record for this input. Accordingly, we will continue to use HTS 3921.90.10.001 for the final results.

Comment 15: Use of Customer Code or Common Customer Code in the Cohen's *d* Test to Identify the Purchaser in Stanley's Margin Program

Petitioner's Arguments:

- The Department should use CCUSCODU, as it stated it would in the preliminary decision memorandum and as is its standard practice, but did not do in Stanley's actual margin calculation program.

Stanley's Arguments:

- There are net price differences among customers individually identified in the field CUSCODU but which share a common customer code due to price adjustments of various types. Thus, the Department should continue to use CUSCODU.

Department's Position:

We agree with Petitioner. We inadvertently miscoded CUSCODU in lieu of CCUSCODU in Stanley's preliminary margin program, despite our stated intention in the Preliminary Decision Memorandum (*see* page 16) to use the consolidated, or common, customer code, according to our standard practice. We note that we used CCUSCODU in Stanley's margin program in the immediately preceding administrative review.[228] The mere fact that there are net price differences among customers individually identified in the CUSCODU field but which share a common customer code does not, in and of itself, lead the Department to use CUSCODU to identify who the purchaser is for purposes of the Cohen's *d* Test. We acknowledge that recently in another case, the Department did opt to use CUSCODU to identify the purchaser in the

[225] *See* Petitioner Rebuttal at 34.
[226] *Id.*, at 34-35.
[227] *See Tianjin Mach. Imp. & Exp. Corp. v. United States*, 806 F. Supp. 1008, 1015 (CIT).
[228] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Fourth Antidumping Duty Administrative Review*, 78 FR 56861 (September 16, 2013), and accompanying Preliminary Decision Memorandum at 14; unchanged in *Nails AR4 Final.*

differential pricing analysis,[229] but the facts in that case are distinct from those here. In *Pasta from Italy*, the respondent negotiated separate rebates with the individual entities that constituted a common customer. The record evidence for this case segment indicates that the opposite is true.[230] Accordingly, for these final results, the Department is using CCUSCODU in Stanley's final margin program.[231]

Comment 16: Stanley's Use of Steam and Gasoline

Petitioner's Arguments:

- The Department found at verification that Stanley used these two energy/utility inputs and should consider them as FOPs, using the information it gathered at verification to calculate usage ratios.

Stanley's Arguments:

- The Department should treat these two items as overhead based upon the analysis used in *Nails AR3* final to determine what materials should be considered as direct materials or overhead items.

Department's Position:

Stanley references precedent that applies to whether certain *material* inputs are more appropriately classified as overhead, as opposed to *energy/utility* inputs, such as steam or gasoline. Nonetheless, most of the same principles listed below apply. The Department has, over time, developed several factors for assessing whether inputs should be classified as direct materials or overhead. These considerations include: 1) whether the input is physically incorporated into the final product; 2) the input's contribution to the production process and finished product; 3) the relative cost of the input; and, 4) the way the cost of the input is typically treated in the industry.[232] The Department has also classified inputs as direct materials if they were found to be: 1) consumed continuously with each unit of production; 2) required for a particular segment of the production process; 3) essential for production; 4) not used for incidental purposes; or, 5) otherwise a significant input to the manufacturing process rather than a miscellaneous or occasionally used material.[233] Also of consideration has been whether the input was so regularly replaced as to represent a direct material rather than an overhead item. As demonstrated by the variety of considerations, there is no conclusive test for reaching the appropriate classification of inputs that are not easily distinguished on their face as direct materials or overhead. The Department relies on the totality of the evidence to guide its decision

[229] *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 8604 (February 18, 2105), and accompanying Issues and Decision Memorandum at Comment 4 (*Pasta from Italy*).
[230] For further discussion regarding this matter, which involves business proprietary information, please refer to the memorandum entitled "Business Proprietary Information Referenced in the Final Results," dated March 30, 2015.
[231] *See* Stanley Final Analysis Memorandum at Attachment 1.
[232] *See Nails AR3* at Comment 4.
[233] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into A1odules, from the People's Republic of China: Final Determination of Sales at Less than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012) and accompanying Issues and Decision Memorandum at Comment 7; *see also Citric Acid Final Results Final Results of the First Administrative Review of the Antidumping Duty Order: Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 FR 77772 (December 14, 2011) and accompanying Issues and Decision Memorandum at Comment 18.

in each case.[234] Our analysis with respect to Stanley's use of steam and gasoline is very similar to that described above, with one distinction. Because Stanley uses steam and gasoline for energy/utility purposes, the first consideration noted above, whether they are physically incorporated into the final product, is not relevant.

Based on the totality of evidence, the Department agrees with Stanley. The Department noted at verification that Stanley used steam to heat its facility during the winter months, and gasoline to operate the forklifts it used in its warehouse to receive and move raw materials and finished merchandise.[235] Plainly, steam does not meet any of the aforementioned considerations to be classified as an energy/utility input instead of an overhead item. Stanley used steam to heat the entire facility, not just the production floor, and it does not contribute to the nails production process. Likewise, gasoline should also be considered as overhead in this instance. Its contribution to the production process is limited to powering the forklifts that move items within the facility; record evidence from verification indicates that its impact on cost is minimal, as is its usage relative to Stanley's overall production of all merchandise, including subject merchandise.[236]

Comment 17: Scrap Offset for Stanley's Toller A[237]

Petitioner's Arguments:

- The Department should deny the wiredrawing scrap offset because Toller A did not keep reliable records with respect to this byproduct.

Stanley's Arguments:

- The Department should allow the scrap offset claimed by Toller A because it unquestionably generated and sold this byproduct, although it did not keep any records of such. Allowing the scrap offset will permit the Department to meet its obligation to calculate margins as accurately as possible, in accordance with *Amanda Foods* and *Rhone Poulenc*.[238]

Department's Position:

The Department's practice is to grant an offset for byproducts generated during the production of the merchandise under consideration if evidence is provided that such byproduct has commercial value.[239] Moreover, parties requesting a byproduct offset have the burden of presenting to the Department not only evidence that the generated byproduct is sold or re-used in the production of the subject merchandise, but also all the information necessary for the Department to

[234] *Id*.
[235] *See* the Stanley Langfang Verification Report at 15.
[236] *Id*., at Exhibits 9 and 25.
[237] For the name of this company, which is business proprietary information, please refer to the memorandum entitled "Business Proprietary Information Referenced in the Final Results," dated March 30, 2015.
[238] *Amanda Foods (Viet), Ltd. v. United States*, 714F. Supp. 2d 1282 (CIT 2010) ("*Amanda Foods")*; *see also Rhone Poulenc, Inc. v. United States*, 899 F. 2d1185 (Fed. Cir. 1990) ("*Rhone Poulenc*").
[239] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 35245 (June 12, 2013) and accompanying Issues and Decision Memorandum at Issue 10.

incorporate such offsets into the margin calculation.[240] In the *Preliminary Results*, we did not grant the byproduct offset for Toller A's wiredrawing scrap because the company failed to keep sales records demonstrating that it received the proceeds for such sales.[241] Additionally, the byproduct amount reported was based on estimates, rather than actual production records.[242] In other words, there is no record evidence to show that Toller A's byproduct had commercial value, nor are the reported byproduct production amounts substantiated by any actual records. In sum, contrary to Stanley's contention, allowing such an offset will not lead to a more accurate margin calculation because it would not be based upon evidence necessary to establish eligibility for the offset.

Comment 18: Scrap Offset for Stanley's Toller B[243]

Petitioner's Arguments:

- The Department should deny the wiredrawing scrap offset because Toller B did not keep reliable records with respect to this byproduct.

Stanley's Arguments:

- Petitioner's arguments are moot because the Department did not rely on any FOP information from Toller B.

Department's Position:

We agree with Stanley. In the *Preliminary Results*, we used FOP data incorporating only the wiredrawing experience of Toller A,[244] and we continue to do so for the final results. Thus, the scrap offset for Toller B is not at issue for the final results.

Comment 19: Correction of a Ministerial Error Pertaining to Freight Revenue in Stanley's Margin Calculation Program

Stanley's Arguments:

- The Department erroneously failed to include freight revenue in the calculation of net U.S. price despite its intention to do so.

No other parties commented on this issue.

Department's Position:

We agree with Stanley and have made this correction to its margin calculation program for the final results.[245]

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[240] *See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 74 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 34.
[241] *See* Stanley's Preliminary Analysis Memorandum at 10, dated September 18, 2014.
[242] *See* Stanley's February 21, 2014, Section D Response at 95-96.
[243] For the name of this company, which is business proprietary information, please refer to the memorandum entitled "Business Proprietary Information Referenced in the Final Results," dated March 30, 2015.
[244] *See* the Preliminary Decision Memorandum at 9.
[245] *See* Stanley's Final Analysis Memorandum, dated concurrently with these final results.

Comment 20: Usage Rates for Three Chemical Inputs Used by Toller A in the Pickling and Phosphating Process

Petitioner's Arguments:

- The Department should not use the consumption rates reported by Stanley for sodium carbonate, trisodium phosphate, and ammonium chloride because the record does not support its method for allocating the usage of these three inputs.
- Instead of basing the usage ratios of these chemicals in relation to that of the "main chemical" of the pickling and phosphating process (orthophosphoric acid), the Department should apply the same methodology used to calculate Toller A's other FOP usage rates.

Stanley's Arguments:

- Given that the toller only began performing the pickling and phosphating process for a certain grade of Stanley's SWR later in the POR, its method for determining the usage of these materials was reasonable given the available data, especially given that Toller A considers these chemicals as overhead items and does not track actual consumption.

Department's Position:

After considering the available record evidence, we find Stanley's reporting methodology for these three chemicals, which were purchased well before the pickling and phosphating process began for Stanley,[246] is reasonable. Moreover, contrary to Petitioner's claim that the allocation methodology used to report the usage rates for these FOPs is unsupported, the method used by Stanley to allocate consumption to these inputs has been verified by the Department.[247] We note that this situation is distinct from the situation encountered in the antidumping duty investigation of drill pipe from the PRC involving phosphating performed by a toller.[248] Unlike in that case, here, Stanley explained its reporting methodology for these three minor chemical inputs beforehand,[249] which Department officials were able to examine fully during verification.

[246] *See* Stanley Langfang Verification Report at 13 and Exhibit17; *see also* Stanley's May 9, 2014, supplemental questionnaire response at Exhibit SD-8(b).
[247] *See* Stanley Langfang Verification Report at 13 and Exhibit 21.
[248] *See Drill Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 76 FR 1966 (January 11, 2011) and accompanying Issues and Decision Memorandum at the "Changes from Verification" section, Part A.
[249] S*ee* Stanley's May 9, 2014, supplemental questionnaire response at 62-63.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of review and the final dumping margins in the *Federal Register*.

Agree ✓ Disagree _____

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 March 2015
Date

Appendix

Companies Included in the PRC-Wide Entity

ABF Freight System, Inc.
Agritech Products Ltd.
Aihua Holding Group Co., Ltd.
Aironware (Shanghai) Co. Ltd.
Anping County Anning Wire Mesh Co.
Anping Fuhua Wire Mesh Making Co.
APM Global Logistics O/B Hasbro Toy.
Beijing Daruixing Global Trading Co., Ltd.
Beijing Daruixing Nail Products Co., Ltd.
Beijing Hong Sheng Metal Products Co., Ltd.
Beijing Hongsheng Metal Products Co., Ltd.
Beijing Jinheuang Co., Ltd.
Beijing Kang Jie Kong Cargo Agent.
Beijing KJK Intl Cargo Agent Co., Ltd.
Beijing Long Time Rich Tech Develop.
Beijing Tri-Metal Co., Ltd.
Beijing Yonghongsheng Metal Products Co., Ltd.
Besco Machinery Industry (Zhejiang) Co., Ltd.
Brighten International, Inc.
Cana (Tianjin) Hardware Ind., Co., Ltd.
Cana (Tianjin) Hardware Industrial Co., Ltd.
Century Shenzhen Xiamen Branch.
Changzhou MC I/E Co., Ltd.
Changzhou Quyuan Machinery Co., Ltd.
Changzhou Refine Flag & Crafts Co., Ltd.
Chao Jinqiao Welding Material Co., Ltd.
Chaohu Bridge Nail Industry Co., Ltd.
Chaohu Jinqiao Welding Material Co.
Chewink Corp.
China Container Line (Shanghai) Ltd.
China Silk Trading & Logistics Co., Ltd.
China Staple Enterprise (Tianjin) Co., Ltd.
Chongqing Hybest Nailery Co., Ltd.
Chongqing Hybest Tools Group Co., Ltd.
Cintee Steel Products Co., Ltd.
Cyber Express Corporation.
CYM (Nanjing) Nail Manufacture Co., Ltd.
CYM (Nanjing) Ningquan Nail Manufacture Co., Ltd.
Dagang Zhitong Metal Products Co., Ltd.
Damco Shenzhen.
Daxing Niantan Industrial.
Delix International Co., Ltd.

Dingzhou Derunda Material and Trade Co., Ltd.
Dingzhou Ruili Nail Production Co., Ltd.
Dong'e Fugiang Metal Products Co., Ltd.
Dongguan Five Stone Machinery Products Trading Co., Ltd.
Elite International Logistics Co.
Elite Master International Ltd.
England Rich Group (China) Ltd.
Entech Manufacturing (Shenzhen) Ltd.
Expeditors China Tianjin Branch.
Faithful Engineering Products Co. Ltd.
Fedex International Freight Forward Agency Services (Shanghai) Co., Ltd.
Feiyin Co., Ltd.
Fension International Trade Co., Ltd.
Foreign Economic Relations & Trade.
Fujiansmartness Imp. & Exp. Co., Ltd.
Fuzhou Builddirect Ltd.
Goal Well Stone Co., Ltd.
Gold Union Group Ltd.
Goldever International Logistics Co.
Goldmax United Ltd.
Grace News Inc.
Guangdong Foreign Trade Import & Export Corporation.
Guangzhou Qiwei Imports and Exports Co., Ltd.
Guoxin Group Wang Shun I/E Co., Ltd.
GWP Industries (Tianjin) Co., Ltd.
Haierc Industry Co., Ltd.
Haixing Hongda Hardware Production Co., Ltd.
Haixing Linhai Hardware Products Factory.
Haiyan Fefine Import and Export Co.
Handuk Industrial Co., Ltd.
Hangzhou Kelong Electrical Appliance & Tools Co. Ltd.
Hangzhou New Line Co., Ltd.
Hangzhou Zhongding Imp. & Exp. Co., Ltd.
Hebei Cangzhou New Century Foreign Trade Co., Ltd.
Hebei Development Metals Co., Ltd.
Hebei Jinsidun (JSD) Co., Ltd.
Hebei Machinery Import and Export Co., Ltd.
Hebei Minmetals Co., Ltd.
Hebei My Foreign Trade Co., Ltd.
Hebei Super Star Pneumatic Nails Co., Ltd.
Henan Pengu Hardware Manufacturing Co., Ltd.
Hengshui Mingyao Hardware & Mesh Products Co., Ltd.
Heretops (Hong Kong) International Ltd.
Heretops Import & Export Co., Ltd.
Hilti (China) Limited.
HK Villatao Sourcing Co., Ltd.

Hong Kong Hailiang Metal Trading Ltd.
Hong Kong Yu Xi Co., Ltd.
Huadu Jin Chuan Manufactory Co Ltd.
Huanghua Honly Industry Corp.
Huanghua Huarong Hardware Products Co., Ltd.
Huanghua Jinhai Metal Products Co., Ltd.
Huanghua Shenghua Hardware Manufactory Factory.
Huanghua Xinda Nail Production Co., Ltd.
Huanghua Yufutai Hardware Products Co., Ltd.
Hubei Boshilong Technology Co., Ltd.
Huiyuan Int'l Commerce Exhibition Co., Ltd.
Jiashan Superpower Tools Co., Ltd.
Jiaxing Yaoliang Import & Export Co., Ltd.
Jinhua Kaixin Imp & Exp Ltd.
Joto Enterprise Co., Ltd.
Karuis Custom Metal Parts Mfg. Ltd.
Kasy Logistics (Tianjin) Co., Ltd.
K.E. Kingstone.
Koram Panagene Co., Ltd.
Kuehne & Nagel Ltd.
Kum Kang Trading Co., Ltd.
Kyung Dong Corp.
Le Group Industries Corp. Ltd.
Leang Wey Int. Business Co., Ltd.
Liang's Industrial Corp.
Lijiang Liantai Trading Co., Ltd.
Linhai Chicheng Arts & Crafts Co., Ltd.
Lins Corp.
Linyi Flying Arrow Imp & Exp. Co., Ltd.
Maanshan Cintee Steel Products Co., Ltd.
Maanshan Leader Metal Products Co., Ltd.
Maanshan Longer Nail Product Co., Ltd.
Manufacutersinchina (HK) Company Ltd.
Marsh Trading Ltd.
Master International Co., Ltd.
Mingguang Abundant Hardware Products Co., Ltd.
Nanjing Dayu Pneumatic Gun Nails Co., Ltd.
Nantong Corporation for Internation.
Ningbo Bolun Electric Co., Ltd.
Ningbo Dollar King Industrial Co., Ltd.
Ningbo Endless Energy Electronic Co., Ltd.
Ningbo Fension International Trade Center.
Ningbo Fortune Garden Tools and Equipment Inc.
Ningbo Haixin Railroad Material Co.
Ningbo Huamao Imp & Exp. Co., Ltd.
Ningbo Hyderon Hardware Co., Ltd.

Ningbo JF Tools Industrial Co., Ltd.
Ningbo KCN Electric Co., Ltd.
Ningbo Meizhi Tools Co., Ltd.
Ningbo Ordam Import & Export Co., Ltd.
OEC Logistics (Qingdao) Co., Ltd.
Omega Products International.
OOCL Logistics O B of Winston Marketing Group.
Orisun Electronics HK Co., Ltd.
Pacole International Ltd.
Pakwell Co., Ltd.
Panagene Inc.
Pavilion Investmen Ltd.
Perfect Seller Co., Ltd.
Prominence Cargo Service, Inc.
PT Enterprise Inc.
Qianshan Huafeng Trading Co., Ltd.
Qidong Liang Chyuan Metal Industry Co., Ltd.
Qingdao Bestworld Industry Trading.
Qingdao D & L Supply Group Co., Ltd.
Qingdao Denarius Manufacture Co. Limited.
Qingdao Golden Sunshine ELE–EAQ Co., Ltd.
Qingdao International Fastening Systems Inc.
Qingdao Koram Steel Co., Ltd.
Qingdao Lutai Industrial Products Manufacturing Co., Ltd.
Qingdao Meijia Metal Products Co.
Qingdao Rohuida International Trading Co.
Qingdao Sino-Sun International Trading Company Limited.
Qingdao Super United Metals & Wood Prods. Co., Ltd.
Qingdao Tiger Hardware Co., Ltd.
Qingfu Metal Craft Manufacturing Ltd.
Qinghai Wutong (Group) Industry Co.
Qingyuan County Hongyi Hardware Products Factory.
Qingyun Hongyi Hardware Factory.
Qinhuangdao Kaizheng Industry and Trade Co.
Q-Yield Outdoor Great Ltd.
Region International Co., Ltd.
Richard Hung Ent. Co.. Ltd.
River Display Ltd.
Rizhao Changxing Nail-Making Co., Ltd.
Rizhao Handuk Fasteners Co., Ltd.
Rizhao Qingdong Electronic Appliance Co.
Romp (Tianjin) Hardware Co., Ltd.
Saikelong Electric Appliances (Suzhou) Co.
Se Jung (China) Shipping Co., Ltd.
Senco Products, Inc.
Senco-Xingya Metal Products (Taicang) Co., Ltd.

Shandex Co., Ltd.
Shandex Industrial Inc.
Shandong Liaocheng Minghua Metal Products Co., Ltd.
Shandong Minmetals Co., Ltd.
Shanghai Chengkai Hardware Product. Co., Ltd.
Shanghai Colour Nail Co., Ltd.
Shanghai Ding Ying Printing & Dyeing CLO.
Shanghai GBR Group International Co.
Shanghai Holiday Import & Export Co., Ltd.
Shanghai Jian Jie International TRA.
Shanghai March Import & Export Company Ltd.
Shanghai Mizhu Imp & Exp Corporation.
Shanghai Nanhui Jinjun Hardware Factory.
Shanghai Pioneer Speakers Co., Ltd.
Shanghai Pudong Int'l Transportation Booking Dep't.
Shanghai Seti Enterprise International Co., Ltd.
Shanghai Shengxiang Hardware Co.
Shanghai Suyu Railway Fastener Co.
Shanghai Tengyu Hardware Products Co., Ltd.
Shanghai Tymex International Trade Co., Ltd.
Shanxi Tianli Enterprise Co., Ltd.
Shanxi Yuci Broad Wire Products Co., Ltd.
Shanxi Yuci Wire Material Factory.
Shaoguang International Trade Co.
Shaoxing Chengye Metal Producting Co., Ltd.
Shenyang Yulin International.
Shenzhen Changxinghongye Imp.
Shenzhen Erisson Technology Co., Ltd.
Shenzhen Meiyuda Trade Co., Ltd.
Shenzhen Pacific-Net Logistics Inc.
Shenzhen Shangqi Imports-Exports TR.
Shijiazhuang Anao Imp & Export Co., Ltd.
Shijiazhuang Fangyu Import & Export Corp.
Shijiazhuang Fitex Trading Co., Ltd.
Shijiazhuang Shuangjian Tools Co., Ltd.
Shitong Int'l Holding Limited.
Shouguang Meiqing Nail Industry Co., Ltd.
Sinochem Tianjin Imp & Exp Shenzhen Corp.
Sirius Global Logistics Co., Ltd.
Sunfield Enterprise Corporation.
Sunlife Enterprises (Yangjiang) Ltd
Sunworld International Logistics.
Superior International Australia Pty Ltd.
Suzhou Guoxin Group Wangshun I/E Co. Imp. Exp. Co., Ltd.
Suzhou Xingya Nail Co., Ltd.
Suzhou Yaotian Metal Products Co., Ltd.

Shandex Industrial.
Telex Hong Kong Industry Co., Ltd.
The Everest Corp.
Thermwell Products.
Tian Jin Sundy Co., Ltd. (a/k/a/ Tianjin Sunny Co., Ltd.)
Tianjin Baisheng Metal Product Co., Ltd.
Tianjin Bosai Hardware Tools Co., Ltd.
Tianjin Chengyi International Trading Co., Ltd.
Tianjin Chentai International Trading Co., Ltd.
Tianjin City Dagang Area Jinding Metal Products Factory.
Tianjin City Daman Port Area Jinding Metal Products Factory.
Tianjin City Jinchi Metal Products Co., Ltd.
Tianjin Dagang Dongfu Metallic Products Co., Ltd.
Tianjin Dagang Hewang Nail Factory.
Tianjin Dagang Hewang Nails Manufacture Plant.
Tianjin Dagang Huasheng Nailery Co., Ltd.
Tianjin Dagang Jingang Nail Factory.
Tianjin Dagang Jingang Nails Manufacture Plant.
Tianjin Dagang Linda Metallic Products Co., Ltd.
Tianjin Dagang Longhua Metal Products Plant.
Tianjin Dagang Shenda Metal Products Co., Ltd.
Tianjin Dagang Yate Nail Co., Ltd.
Tianjin Dery Import and Export Co., Ltd.
Tianjin Everwin Metal Products Co., Ltd.
Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.
Tianjin Hewang Nail Making Factory.
Tianjin Huachang Metal Products Co., Ltd.
Tianjin Huapeng Metal Company.
Tianjin Huasheng Nails Production Co., Ltd.
Tianjin Jetcom Manufacturing Co., Ltd.
Tianjin Jieli Hengyuan Metallic Products Co., Ltd.
Tianjin Jietong Hardware Products Co., Ltd.
Tianjin Jietong Metal Products Co., Ltd.
Tianjin Jin Gang Metal Products Co., Ltd.
Tianjin Jinjin Pharmaceutical Factory Co., Ltd.
Tianjin Jishili Hardware Co., Ltd.
Tianjin JLHY Metal Products Co., Ltd.
Tianjin Jurun Metal Products Co., Ltd.
Tianjin Kunxin Hardware Co., Ltd.
Tianjin Kunxin Metal Products Co., Ltd.
Tianjin Linda Metal Company.
Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.
Tianjin Master Fastener Co., Ltd. (a/k/a Master Fastener Co., Ltd.)
Tianjin Mei Jia Hua Trade Co., Ltd.
Tianjin Metals and Minerals.
Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp.

Tianjin Products & Energy Resources Dev. Co., Ltd.
Tianjin Qichuan Metal Co., Ltd.
Tianjin Ruiji Metal Products Co., Ltd.
Tianjin Senbohengtong International.
Tianjin Senmiao Import and Export Co., Ltd.
Tianjin Shenyuan Steel Producting Group Co., Ltd.
Tianjin Shishun Metal Product Co., Ltd.
Tianjin Shishun Metallic Products Co., Ltd.
Tianjin Tailai Import Export.
Tianjin Universal Machinery Imp. & Exp. Corp. Ltd.
Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd.
Tianjin Xiantong Juxiang Metal MFG Co., Ltd.
Tianjin Xiantong Material & Trade Co., Ltd.
Tianjin Xinyuansheng Metal Products Co., Ltd.
Tianjin Yihao Metallic Products Co., Ltd.
Tianjin Yongchang Metal Product Co., Ltd.
Tianjin Yongxu Metal Products Co., Ltd.
Tianjin Yongye Furniture.
Tianjin Yongyi Standard Parts Production Co., Ltd.
Tianjin Zhong Jian Wanli Stone Co., Ltd.
Tianjin Zhongsheng Garment Co., Ltd.
Tianwoo Logistics Developing Co., Ltd.
Topocean Consolidation Service (CHA) Ltd.
Traser Mexicana, S.A. De C.V.
Treasure Way International Dev. Ltd.
True Value Company (HK) Ltd.
Unicatch Industrial Co., Ltd.
Unigain Trading Co., Ltd.
Union Enterprise (Kunshan) Co., Ltd. a.k.a. Union Enterprise Co., Ltd.
Weifang Xiaotian Machine Co., Ltd.
Wenzhou KLF Medical Plastics Co., Ltd.
Wenzhou Ouxin Foreign Trade Co., Ltd.
Wenzhou Yuwei Foreign Trade Co., Ltd.
Winsmart International Shipping Ltd. O/B Zhaoqing Harvest Nails Co., Ltd.
Wintime Import & Export Corporation Limited of Zhongshan.
Worldwide Logistics Co., Ltd. (Tianjin Branch).
Wuhan Xinxin Native Produce & Animal By-Products Mfg. Co., Ltd.
Wuhu Sheng Zhi Industrial Co., Ltd.
Wuhu Shijie Hardware Co., Ltd.
Wuhu Xin Lan De Industrial Co., Ltd.
Wuqiao County Huifeng Hardware Products Factory.
Wuqiao County Xinchuang Hardware Products Factory.
Wuqiao Huifeng Hardware Production Co., Ltd.
Wuxi Baolin Nail Enterprises.
Wuxi Baolin Nail-Making Machinery Co., Ltd.
Wuxi Chengye Metal Products Co., Ltd.

Wuxi Colour Nail Co., Ltd.
Wuxi Qiangye Metalwork Production Co., Ltd.
Wuxi Jinde Assets Management Co., Ltd.
Wuxi Moresky Developing Co., Ltd.
Xiamen New Kunlun Trade Co., Ltd.
Xi'an Steel.
XL Metal Works Co., Ltd.
XM International, Inc.
Xuzhou CIP International Group Co., Ltd.
Yeswin Corporation.
Yitian Nanjing Hardware Co., Ltd.
Yiwu Dongshun Toys Manufacture.
Yiwu Excellent Import & Export Co., Ltd.
Yiwu Jiehang Import & Export Co., Ltd.
Yiwu Qiaoli Import & Export Co., Ltd.
Yiwu Richway Imp & Exp Co., Ltd.
Yiwu Zhongai Toys Co., Ltd.
Yongcheng Foreign Trade Corp.
Yu Chi Hardware Co., Ltd.
Yue Sang Plastic Factory.
Yuhuan Yazheng Importing.
Zhangjiagang Lianfeng Metals Products Co., Ltd.
Zhangjiagang Longxiang Packing Materials Co.
Zhaoqing Harvest Nails Co., Ltd.
Zhejiang Hungyan Xingzhou Industria.
Zhejiang Jinhua Nail Factory.
Zhejiang Minmetals Sanhe Imp & Exp Co.
Zhejiang Qifeng Hardware Make Co., Ltd.
Zhejiang Taizhou Eagle Machinery Co.
Zhejiang Yiwu Huishun Import/Export Co., Ltd.
Zhongshan Junlong Nail Manufactures Co., Ltd.
ZJG Lianfeng Metals Product Ltd.